

Iowa Department of Human Services

REQUEST FOR PROPOSAL (RFP)

Revenue Collections and Estate Recovery Services for Iowa Medicaid

MED-18-018

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# *RFP Purpose.*

The purpose of this Request for Proposal (RFP) is to solicit proposals that will enable the Department of Human Services (Agency) to select the most qualified contractor to perform Revenue Collections and Estate Recovery functions and other related activities for the Iowa Medicaid and ***hawk-i*** programs.

# *Duration of Contract.*

The Agency anticipates executing a contract that will have an initial three year contract term with the ability to extend the contract for threeadditional three**-**year terms. The Agency will have the sole discretion to extend the contract.

Procurement Timetable

There are no exceptions to any deadlines for the bidder; however, the Agency reserves the right to change the dates. Times provided are in Central Time.

|  |  |
| --- | --- |
| **Event** | **Date** |
| Agency Issues RFP Notice to Targeted Small Business Website (48 hours): | **November 30, 2017** |
| Agency Issues RFP to Bid Opportunities Website | **December 7, 2017** |
| Bidder Letter of Intent to Bid Due By | **December 22, 2017**  **4:00 p.m.** |
| Bidder Written Questions Due By | **Date and Time for First Round of Questions: December 22, 2017**  **4:00 p.m.**  **Date and Time for Second Round of Questions: January 18, 2018**  **4:00 p.m.** |
| Agency Responses to Questions Issued By | **Date for First Round of Responses: January 5, 2018**  **Date for Second Round of Responses: February 2, 2018** |
| **Bidder Proposals and any Amendments to Proposals Due By** | **February 28, 2018**  **4:00 p.m.** |
| Agency Announces Apparent Successful Bidder/Notice of Intent to Award | **March 22, 2018** |
| Contract Negotiations and Execution of the Contract Completed | **April 13, 2018** |
| Anticipated Start Date for Transition Phase | **May 1, 2018** |
| Start Date for Operations Phase | **July 2, 2018** |

Section 1 Background and Scope of Work

1.1 Background.

*Legal Authority*

Title XIX of the Social Security Act (the Act) authorizes federal grants to states for a proportion of expenditures for medical assistance under an approved Medicaid state plan, and for expenditures necessary for administration of the state plan. Under section 1903(a)(7) of the Act, federal payment is available at a match of 50 percent for amounts expended by a state “as found necessary by the Secretary for the proper and efficient administration of the state plan,” per 42 C.F.R. § 433.15(b)(7).

Section 1902(a)(25) of the Act establishes the third-party liability (TPL) requirements with which the state plan for medical assistance must comply. Regulations and procedures for implementing these regulations are further defined in 42 C.F.R. part 433 subpart D; Chapter 3 Section 3900 of the State Medicaid Manual; and Iowa State Plan section 4.22.

Section 1912 of the Act establishes requirements related to assignment of rights for payment. Regulations and procedures for implementing Estate Recovery regulations are further defined in Iowa Code § 249A.5.

Section 1917 of the Act governs liens, adjustments and recoveries, and transfers of assets related to medical assistance paid or to be paid on the recipient’s behalf under the state plan. Regulations and procedures for implementing these regulations are further defined in 42 C.F.R. § 433.36, Iowa Code § 249A.6, and Iowa State Plan section 4.17 and Attachment 4.17-A.

*Overview*

The Iowa Department of Human Services (DHS) is the single State entity responsible for administering the Medicaid program in Iowa. The Iowa Medicaid Program reimburses providers for delivery of services to eligible Medicaid recipients under the authority of Title XIX of the Social Security Act through enrolled providers and health plans. The Agency operates this program through its business unit, the Iowa Medicaid Enterprise (IME). The Agency is also responsible for Iowa’s State CHIP program (including ***hawk-i***).

On April 1, 2016, the IME transitioned to a managed care system, known as IA Health Link.  As a result of this transition the model for service delivery and reimbursement changed from a primarily Fee-for-Service (FFS) model to a risk based Managed Care Organization (MCO) model.  The majority of services are included in this statewide managed care structure, including long-term services and supports (LTSS), behavioral health, and pharmacy. Approximately 92% of all Iowa Medicaid Members are enrolled in an MCO with 8% remaining in FFS. Iowa’s ***hawk-i*** population is served by the same Medicaid MCOs and included in the total MCO population. As directed by Iowa Admin. Code r. 441-86.13, a Third Party Administrator (TPA) manages the ***hawk-i*** program. Beginning July 1, 2019, the Agency intends to disperse the current TPA functions into corresponding contracts listed in *Table 2*, as part of its procurement strategy.

*Iowa Medicaid Coverage Groups and Corresponding Programs*

There are three Iowa Medicaid coverage groups and corresponding programs: IA Health Link, Medicaid Fee-for-Service (FFS), and ***hawk-i***. Information regarding these programs is found at this link: <http://dhs.iowa.gov/sites/default/files/Comm020.pdf>. Please note, the data presented in the link focuses on Medicaid FFS programs.

Most of the Agency’s FFS population either falls into a premium payment coverage group or into an historically exempt population. Furthermore, during the 2017 legislative session it was determined that the Agency will not recognize a three month retroactive eligibility period except for pregnant women (and during the 60-day period beginning on the last day of the pregnancy) and infants under one year of age, for applications filed on or after November 1, 2017. This includes initial applications and applications to add new household members.

The Agency is also in the initial planning stages for implementation of an MCO passive enrollment process. Passive enrollment means the State assigns and enrolls Members into a managed care plan without offering an “up front” plan selection period. This is often referred to as an “auto-assignment process.” Once assigned, the Member will have opportunities to change plans.

**Table 1: Current Iowa Medicaid Population Structure**

|  |  |  |  |
| --- | --- | --- | --- |
| **Eligibility Group** | **August 2017 Enrollment** | **Average Monthly Claims Processed** \* | **Delivery System** |
| IA Health Link  (including ***hawk-i***) | Medicaid 558,980 | 2,230,551\*\* | MCOs |
| ***hawk-i*** 48,118 | 58,056\*\* |
| FFS Medicaid | 54,620 | 248,882 | Agency |
| FFS Dental | 295,097 | 47,899\*\*\* | Agency |
| Dental Wellness | 290,320 | 17,666\*\*\* | PAHPs |
| ***hawk-i*** Dental (including dental-only) | 49,054 | 5,280 (dental claims only) | PAHP |

\*Based on claims processed from September 2016 through August 2017.

\*\*claims processed by line, which can include multiple services.

\*\*\*Due to changes in Dental Wellness program effective July 1, 2017, these figures do not represent claims going forward.

Beginning July 1, 2017, the Agency combined dental benefits for all adult enrollees into one Dental Wellness program, delivered via prepaid ambulatory health plans (PAHPs). In addition, the Agency provides children dental coverage through various packages. Medicaid kids receive comprehensive dental coverage on a FFS basis and ***hawk-i*** children receive dental coverage through a PAHP. ***hawk-i*** also has a dental-only program for children with third-party liability (TPL).

*Current Agency Environment*

The IME is a collaboration of third party professional and system services contractors and Agency staff.  The Agency’s IME staff is relatively small with 41 State employees. Agency staff provide program and policy guidance, oversight, and contract monitoring to ensure access, cost effectiveness, and quality. To support the IME structure, the Agency’s contractors execute the majority of the Medicaid program business functions under a performance-based structure.

The IME currently has Core MMIS, Pharmacy Point of Sale (POS) and Program Integrity (SURS) vendors who provide what CMS would consider a system or sub-system of the current Medicaid Enterprise. At the core of the IME is its MMIS, a mainframe application hosted within the State’s data center, used primarily for batch processing claims and processing various file updates. The IME’s MMIS is built around subsystems that organize and control the data files used to process claims and provide reports. The MMIS contains standard subsystems such as: Recipient, Provider, Claims, Reference, Management and Administrative Reporting (MAR), Managed Care and Third-Party Liability (TPL), as well as the supporting Medically Needy and Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) subsystems. The Core MMIS contractor provides, per contractual requirements, an Electronic Data Interchange (EDI) system and support services, and imaging/scanning solutions. The Agency currently separately contracts with Verscend Technologies for a claims editing solution to meet National Correct Coding Initiative requirements. The Core MMIS contractor will be responsible for providing an NCCI-compliant claims editing solution beginning July 1, 2018.

Additionally, the Agency leverages systems and applications to provide automated access to and/or support for information within the MMIS and Agency business processes. These systems are internally developed and hosted within the State’s data center by the Division of Data Management. They include:

* Data Warehouse/Decision Support (DW/DS) system provides data analysis and decision-making capabilities and access to information, including online access to flexible, user-friendly reporting, analysis, and modeling functions. Agency staff and contractors use the DW/DS system. The Agency’s Division of Data Management (DDM) provides technical support and assistance in developing queries and reports to fulfill the analytical needs for the IME. The DW/DS system provides IME users with the flexibility to produce reporting without MMIS reprogramming in acceptable formats that do not require manual intervention or data manipulation. The DW/DS system maintains the most recent 10 years of claims data from the MMIS. The DW/DS system’s relational database includes the full claim record for adjudicated claims and other Member, provider, reference, prior authorization, and encounter data from the MMIS.
* Eligibility Verification Information System (ELVS) performs three primary request and response functions for providers and other authorized users: Recipient eligibility request and response; Claims status request and response; and Provider summary request and response. The system contains a telephone voice and touch-tone response component and a web portal.
* Individualized Services Information System (ISIS) is the Agency Home and Community Based Services (HCBS) workflow and slot management system. It assists workers in the facility, HCBS waiver, and targeted case management programs in both processing and tracking applications and authorizations through approval or denial. The ISIS application is currently used by Income Maintenance Workers (IMWs), case managers, QIO contractor staff, child health specialty clinics, transition specialists, financial management service authorization staff, Member and provider customer service representatives, and Agency policy staff. It provides authorized users workflows and access to information about a Member. ISIS also retains data on provider types and the services they are allowed.
* Iowa Medicaid Electronic Records System (I-MERS) is a web-based tool that allows treating providers electronic access to up-to-date information about all claims submitted to Iowa Medicaid Enterprise (IME) for all current eligible Medicaid Members. It is used by treating providers to access critical claim information for medical procedures, prescriptions, and other medical care that eligible Medicaid Members have received. I-MERS also assists providers in caring for Members, coordinating their care, reducing costly duplicated services and assisting in maintaining high quality care for Medicaid Members.
* Iowa Medicaid Portal Access System (IMPA) provides access to wide range of business functions from viewing and downloading remittance advices to uploading documents for provider reenrollment and critical incident reporting. Managed Care Organizations and IME Member Services use IMPA to view eligibility, enrollment, and LTSS information that is specific to a Member. The source of this data originates from OnBase, Iowa Automated Benefits Calculation (IABC), DW/DS, and Worker Information System Exchange (WISE/ECF).
* Medicare buy-in (Buy-In) system displays Medicare Part A and B buy-in information and history.
* Premium Payment System (PPS) creates invoices for billing and processes payments received from Members. Member Services uses the system to assist Members who inquire about payments and apply for hardships as needed.
* Title XIX system is primarily a translator for the MMIS, transforming data from other medical systems into a consumable format for the MMIS. Moreover, TXIX acts as a part of the eligibility and enrollment process by choosing the most advantageous plan for new Members. TXIX captures eligibility data from the Eligibility Integrated Application Solution (ELIAS), Medicaid Presumptive Eligibility Portal (MPEP), Family Planning Program (FPP), and IABC systems, runs through a hierarchy, and then sends it to MMIS.

A summary of professional and system services contracts and their primary business functions beginning July 1, 2018 is on the following page.

**Table 2: Iowa Medicaid Primary Business Functions**

| **Contract** | **Business Functions** | |
| --- | --- | --- |
| **Member Management, Consumer Assistance, and Eligibility Help Desk Services**  (including Member Services and DHS Contact Center, ***hawk-i*** will be added in July 2019) | * Member Enrollment/ Enrollment Broker * Member, DHS Contact, and ***hawk-i*** Call Centers * Member Outreach * Managed Care Liaison | * Application and Renewal Assistance * Support ELIAS Level 1 Help Desk/Ticketing * Consumer Assistance for Program Eligibility Requirements |
| **Program Integrity** | * PI System and Database * Data Analytics and Program Analysis * Surveillance and Utilization Review * Encounter Data Quality * MCO Oversight * PERM Project | * Medical Necessity Reviews, Audits, and Payment Recovery * Referrals to Department of Inspections and Appeals (DIA) * CHIPRA and Adult Medicaid Quality Measure Reporting * Ad Hoc Reports |
| **Provider Cost Audit and Rate Setting Services** | * Provider Cost Audits * Provider, Nursing Facility, and LTC Rate Setting | * Provider Cost Settlements * Drug Pricing and Pharmacy Reimbursement Methodologies |
| **Provider Services** | * Provider Call Center * Provider Enrollment and Credentialing | * Provider Outreach, Education and Training * Provider Publications |
| **Quality Improvement Organization Services**  (including Medical Services and HCBS QA) | * Medical Support * Utilization Management * Claims Pre-Payment Review | * HCBS Quality Oversight |
| **Revenue Collections and Estate Recovery Services** | * Third Party Liability Recovery * Pay and Chase * Yield Management * Provider Overpayment and Credit Balance Recovery | * ***hawk-i*** data match * Estate Recovery Services * Provider Withholds and Tax Offsets * Stale Dated Checks * Bank Deposits |
| **Core MMIS Services** | * FFS Claims Processing * MMIS Support * EDI Services * Capitation Payment Processing forMCO, Dental Wellness, ***hawk-i*** and NEMT | * Imaging * Workflow and Document Management * Mailroom and Courier Services * Spend-down |
| **Pharmacy Point-of-Sale System** (including Pharmacy Medical Services) | * Pharmacy Claims Adjudication * Drug-Drug Interaction Management * Retro drug Utilization Review * Pharmacy Prior Authorization | * Pharmacy Prior Authorization Management * Preferred Drug List and Supplemental Rebate Program |
| **Ancillary DDM Systems**  (these are State, not contracted, systems, but including here to show the Medicaid business functions) | * Historical MCO Data Retention * Historical Fee-for-Service and ***hawk-i*** Data Retention * Historical Provider Data Retention * Maintenance and Assistance Status/ Basis of Eligibility * Data Marts | * Historical Member Data Retention * Agency Data Quality Measures * Agency Data Quality Standards * Other Federal Reporting * Premium Payments (including ***hawk-i***) |

*Agency Vision*

The Agency’s goal through this procurement is to add value for Medicaid Members, providers, and other stakeholders, while supporting administration of the Medicaid program.

Additionally, since the transition to managed care, the Agency has refocused its efforts on delivery system reform and oversight of managed care. In this effort, the Agency seeks vendors who will bring strategic solutions, processes, and business operations that can operate within the Agency's culture of continuous process improvement and proactive analysis. The goal of which is to support quality assurance activities that lead to effective oversight of the various delivery systems.

1.2 RFP General Definitions.

Definitions in this section correspond with capitalized terms in the RFP.

***“Agency”*** means the Iowa Department of Human Services.

***“Bid Proposal”*** or ***“Proposal”*** means the bidder’s proposal submitted in response to the RFP.

***“Cloud Computing”***

For security and privacy requirements, the Agency follows the National Institute of Standards and Technology (NIST) definition of cloud computing as “a model for enabling convenient, on-demand network access to a shared pool of configurable computing resources (e.g., networks, servers, storage, applications, and services) that can be rapidly provisioned and released with minimal management effort or service provider interaction.” NIST has identified five essential characteristics of cloud computing: on-demand service, broad network access, resource pooling, rapid elasticity, and measured service.

Types of service models:

1. *Software as a Service (SaaS)*:  The capability provided to the Department is to use the provider’s applications running on a cloud infrastructure. The applications are accessible from various client devices through a thin-client interface such as a web browser (e.g., web-based email). The Department does not manage or control the underlying cloud infrastructure including network, servers, operating systems, storage, or even individual application capabilities, with the possible exception of limited user-specific application configuration settings;
2. *Platform as a Service (PaaS):*  The capability provided to the Department is the ability to deploy onto the cloud infrastructure consumer-created or acquired applications created using programming languages and tools supported by the provider. The Department does not manage or control the underlying cloud infrastructure including network, servers, operating systems, or storage, but has control over the deployed applications and possibly application hosting environment configurations; and
3. *Infrastructure as a Service (IaaS):*  The capability provided to the Department is to provision processing, storage, networks, and other fundamental computing resources where the Department is able to deploy and run arbitrary software, which can include operating systems and applications. The Department does not manage or control the underlying cloud infrastructure but has control over operating systems, storage, deployed applications, and possibly limited control of select networking components (e.g., host firewalls).

Cloud computing is defined to have several deployment models, each of which provides distinct trade-offs for agencies which are migrating applications to a cloud environment. NIST defines the cloud deployment models as follows:

1. *Private cloud.* The cloud infrastructure is operated solely for an organization. It may be managed by the organization or a third party and may exist on premise or off premise.
2. *Community cloud.* The cloud infrastructure is shared by several organizations and supports a specific community that has shared concerns (e.g., mission, security requirements, policy, and compliance considerations). It may be managed by the organizations or a third party and may exist on premise or off premise.
3. *Public cloud.* The cloud infrastructure is made available to the general public or a large industry group and is owned by an organization selling cloud services.
4. *Hybrid cloud*. The cloud infrastructure is a composition of two or more clouds (private, com­munity, or public) that remain unique entities but are bound together by standardized or proprietary technology that enables data and application portability (e.g., cloud bursting for load-balancing between clouds).

***“Contractor”*** means the bidder who enters into a Contract as a result of this Solicitation.

***“Deliverables”*** means all of the services, goods, products, work, work product, data (including data collected on behalf of the Agency), items, materials and property to be created, developed, produced, delivered, performed, or provided by or on behalf of, or made available through, the Contractor (or any agent, contractor or subcontractor of the Contractor) in connection with any contract resulting from this RFP.

***“Invoice”*** means a Contractor’s claim for payment. At the Agency’s discretion, claims may be submitted on an original invoice from the Contractor or may be submitted on a claim form accepted by the Agency, such as a General Accounting Expenditure (GAX) form.

***“Online Bidders Library”*** means an on-line library established for bidders available at <http://www.sp.dhs.state.ia.us/MED-18-018>. The Agency is making online resources available only to registered bidders. Instructions for bidder access are provided in Section 2.4.

***1.3 Scope of Work.***

**1.3.1 Deliverables.**

The Scope of Work for this RFP is set forth in Attachment G, Sample Contract, which details:

* Section 1. SPECIAL TERMS
* Section 2. GENERAL TERMS FOR SERVICES CONTRACTS
* Section 3. SPECIAL CONTRACT ATTACHMENTS

Section 2 Basic Information About the RFP Process

2.1 Issuing Officer.

The Issuing Officer is the sole point of contact regarding the RFP from the date of issuance until selection of the successful bidder. The Issuing Officer for this RFP is:

Joanne Bush

Hoover State Office Building, 1st Floor  
1305 E Walnut Street  
Des Moines, IA 50319-0114

Phone: (515) 256-4887

RFPMED-18-018@dhs.state.ia.us

2.2 Restriction on Bidder Communication.

From the issue date of this RFP until announcement of the successful bidder, the Issuing Officer is the point of contact regarding the RFP. There may be no communication regarding this RFP with any State employee other than the Issuing Officer, except at the direction of the Issuing Officer or as otherwise noted in the RFP. The Issuing Officer will respond only to questions regarding the procurement process.

2.3 Downloading the RFP from the Internet.

The RFP and any related documents such as amendments or attachments (collectively the “RFP”), and responses to questions will be posted at the State of Iowa’s website for bid opportunities: <http://bidopportunities.iowa.gov/>. Check this website periodically for any amendments to this RFP. The posted version of the RFP is the official version. The Agency will only be bound by the official version of the RFP document(s). Bidders should ensure that any downloaded documents are in fact the most up to date and are unchanged from the official version.

2.4 Online Resources.

The Agency is making online resources available to registered bidders in the Online Bidders Library. Only those bidders that provide their intent to bid (see Section 2.5) will be granted access. The Online Bidders Library contains current contract policies, procedures, and statistics. Other links are provided to general information regarding the currently covered services, rates, payments, legislative reports, current initiatives, and State plan documents.

The optimal browser for accessing the sharepoint is Internet Explorer 11. If users experience difficulties opening documents from the SharePoint library, they may download this fix from Microsoft if running within a Windows environment: <https://support.microsoft.com/en-us/kb/3140245>. Also, when users sign in, they have to check the “Sign me in automatically” box.

***2.5 Intent to Bid.***

The Agency requests that bidders provide their intent to bid to the Issuing Officer by the date and time in the Procurement Timetable. Electronic mail is the preferred delivery method. The intent to bid should include the bidder's name, contact person, mailing address, electronic mail address, fax number, telephone number, and a statement of intent to submit a bid in response to this RFP. Though it is not mandatory that the Agency receive an intent to bid, the Agency will only respond to questions about the RFP that have been submitted by bidders who have expressed their intent to bid. The Agency may cancel an RFP for lack of interest based on the number of letters of intent to bid received.

***2.6 Reserved.***

2.7 Questions, Requests for Clarification, and Suggested Changes.

Bidders who have provided their intent to bid on the RFP are invited to submit written questions, requests for clarifications, and/or suggestions for changes to the specifications of this RFP (hereafter “Questions”) by the due date and time provided in the Procurement Timetable. Bidders are not permitted to include assumptions in their Bid Proposals. Instead, bidders shall address any perceived ambiguity regarding this RFP through the question and answer process. If the Questions pertain to a specific section of the RFP, the page and section number(s) must be referenced. The Agency prefers to receive Questions by electronic mail. The bidder may wish to request confirmation of receipt from the Issuing Officer to ensure delivery.

The Agency will post responses to questions received on the State’s website at: <http://bidopportunities.iowa.gov/> by the dates provided in the Procurement Timetable. Follow-up questions to initial responses are permissible as long as all questions are received by the final due date and time for bidder Questions as provided in the Procurement Timetable.

The Agency assumes no responsibility for verbal representations made by its officers or employees unless such representations are confirmed in writing and incorporated into the RFP. In addition, the Agency’s written responses to Questions will not be considered part of the RFP. If the Agency decides to change the RFP, the Agency will issue an amendment.

2.8 Submission of Bid Proposal.

The Bid Proposal shall be received by the Issuing Officer by the time and date specified in the Procurement Timetable. The Agency will not waive this mandatory requirement. Any Bid Proposal received after this deadline will be rejected and will not be evaluated.

Bid Proposals are to be submitted in accordance with the Bid Proposal Formatting section of this RFP. Bidders mailing Bid Proposals shall allow ample mail delivery time to ensure timely receipt of their Bid Proposals. It is the bidder’s responsibility to ensure that the Bid Proposal is received prior to the deadline. Postmarking or submission to a courier by the due date shall not substitute for actual receipt of the Bid Proposal by the Agency.

2.9 Amendment to the RFP and Bid Proposal.

The Agency reserves the right to amend or provide clarifications to the RFP at any time. Amendments will be posted to the State’s website at <http://bidopportunities.iowa.gov/>. If the amendment occurs after the closing date for receipt of Bid Proposals, the Agency may, in its sole discretion, allow bidders to amend their Bid Proposals.

If the bidder amends their Bid Proposal, the amendment shall be in writing and signed by the bidder. The bidder shall provide the same number of copies of the amendment as is required for the original Bid Proposal, for both hardcopy and CD-ROM(s) or USB flash drives, in accordance with the Bid Proposal Formatting Section. The amendment must be also be submitted on a CD-ROM or USB flash drives. It is a mandatory requirement that the Issuing Officer shall receive any amendments by the deadline for submitting Bid Proposals. However, if the RFP is amended after receipt of proposals, any bid amendment must be received by the deadline set by the Agency.

2.10 Withdrawal of Bid Proposal.

The bidder may withdraw its Bid Proposal prior to the closing date for receipt of Bid Proposals by submitting a written request to withdraw to the Issuing Officer. Electronic mail and faxed requests to withdraw will not be accepted.

2.11 Costs of Preparing the Bid Proposal.

The costs of preparation and delivery of the Bid Proposal are solely the responsibility of the bidder.

2.12 Rejection of Bid Proposals.

The Agency reserves the right to reject any or all Bid Proposals, in whole and in part, and to cancel this RFP at any time prior to the execution of a written contract. Issuance of this RFP in no way constitutes a commitment by the Agency to enter into a contract.

2.13 Review of Bid Proposals.

Only bidders that have met the mandatory requirements and are not subject to disqualification will be considered for award of a contract.

2.13.1 Mandatory Requirements.

Bidders must meet these mandatory requirements or will be disqualified and not considered for award of a contract:

* The Issuing Officer must receive the Bid Proposal, and any amendments thereof, prior to or on the due date and time (See RFP Sections 2.8 and 2.9).
* The bidder is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from receiving federal funding by any federal department or agency (See RFP Additional Certifications Attachment).

2.13.2 Reasons Proposals May be Disqualified.

Bidders are expected to follow the specifications set forth in this RFP. However, it is not the Agency’s intent to disqualify Bid Proposals that suffer from correctible flaws. At the same time, it is important to maintain fairness to all bidders in the procurement process. Therefore, the Agency reserves the discretion to permit cure of variances, waive variances, or disqualify Bid Proposals for reasons that include, but may not be limited to, the following:

* Bidder initiates unauthorized contact regarding this RFP with employees other than the Issuing Officer (See RFP Section 2.2);
* Bidder fails to comply with the RFP’s formatting specifications so that the Bid Proposal cannot be fairly compared to other bids (See RFP Section 3.1);
* Bidder fails, in the Agency’s opinion, to include the content required for the RFP;
* Bidder fails to be fully responsive in the Bidder’s Approach to Meeting Deliverables Section, states an element of the Scope of Work cannot or will not be met, or does not include information necessary to substantiate that it will be able to meet the Scope of Work specifications (See RFP Section 3.2.4);
* Bidder’s response materially changes Scope of Work specifications;
* Bidder fails to submit the RFP attachments containing all signatures (See RFP Section 3.2.3);
* Bidder marks entire Bid Proposal confidential, makes excessive claims for confidential treatment, or identifies pricing information in the Cost Proposal as confidential (See RFP Section 3.1);
* Bidder includes assumptions in its Bid Proposal (See RFP Section 2.7); or
* Bidder fails to respond to the Agency’s request for clarifications, information, documents, or references that the Agency may make at any point in the RFP process.

The determination of whether or not to disqualify a proposal and not consider it for award of a contract for any of these reasons, or to waive or permit cure of variances in Bid Proposals, is at the sole discretion of the Agency. No bidder shall obtain any right by virtue of the Agency’s election to not exercise that discretion. In the event the Agency waives or permits cure of variances, such waiver or cure will not modify the RFP specifications or excuse the bidder from full compliance with RFP specifications or other contract requirements if the bidder enters into a contract.

2.14 Bid Proposal Clarification Process.

The Agency may request clarifications from bidders for the purpose of resolving ambiguities or questioning information presented in the Bid Proposals. Clarifications may occur throughout the Bid Proposal evaluation process. Clarification responses shall be in writing and shall address only the information requested. Responses shall be submitted to the Agency within the time stipulated at the occasion of the request.

2.15 Verification of Bid Proposal Contents.

The contents of a Bid Proposal submitted by a bidder are subject to verification.

2.16 Reference Checks.

The Agency reserves the right to contact any reference to assist in the evaluation of the Bid Proposal, to verify information contained in the Bid Proposal, to discuss the bidder’s qualifications, and/or to discuss the qualifications of any subcontractor identified in the Bid Proposal.

2.17 Information from Other Sources.

The Agency reserves the right to obtain and consider information from other sources concerning a bidder, such as the bidder’s capability and performance under other contracts, and the bidder’s authority and ability to conduct business in the State of Iowa. Such other sources may include subject matter experts.

2.18 Criminal History and Background Investigation.

The Agency reserves the right to conduct criminal history and other background investigations of the bidder, its officers, directors, shareholders, or partners and managerial and supervisory personnel retained by the bidder for the performance of the resulting contract. The Agency reserves the right to conduct criminal history and other background investigations of the bidder’s staff and subcontractors providing services under the resulting contract.

2.19 Disposition of Bid Proposals.

Opened Bid Proposals become the property of the Agency and will not be returned to the bidder. Upon issuance of the Notice of Intent to Award, the contents of all Bid Proposals will be in the public domain and be open to inspection by interested parties subject to exceptions provided in Iowa Code chapter 22 or other applicable law.

2.20 Public Records and Request for Confidential Treatment.

Original information submitted by a bidder may be treated as public information by the Agency following the conclusion of the selection process unless the bidder properly requests that information be treated as confidential at the time of submitting the Bid Proposal. See the Bid Proposal Formatting Section for the proper method for making such requests. The Agency’s release of information is governed by Iowa Code chapter 22. Bidders are encouraged to familiarize themselves with Chapter 22 before submitting a Bid Proposal. The Agency will copy public records as required to comply with public records laws.

The Agency will treat the information marked confidential as confidential information to the extent such information is determined confidential under Iowa Code chapter 22 or other applicable law by a court of competent jurisdiction.

In the event the Agency receives a request for information marked confidential, written notice shall be given to the bidder seventy-two (72) hours prior to the release of the information to allow the bidder to seek injunctive relief pursuant to Iowa Code § 22.8.

The bidder’s failure to request confidential treatment of material pursuant to this section and the relevant law will be deemed, by the Agency, as a waiver of any right to confidentiality that the bidder may have had.

2.21 Copyrights.

By submitting a Bid Proposal, the bidder agrees that the Agency may copy the Bid Proposal for purposes of facilitating the evaluation of the Bid Proposal or to respond to requests for public records. By submitting a Bid Proposal, the bidder acknowledges that additional copies may be produced and distributed, and represents and warrants that such copying does not violate the rights of any third party. The Agency shall have the right to use ideas or adaptations of ideas that are presented in the Bid Proposals.

2.22 Release of Claims.

By submitting a Bid Proposal, the bidder agrees that it shall not bring any claim or cause of action against the Agency based on any misunderstanding concerning the information provided herein or concerning the Agency's failure, negligent or otherwise, to provide the bidder with pertinent information as intended by this RFP.

2.23 Reserved.

2.24 Notice of Intent to Award.

Notice of Intent to Award will be sent to all bidders that submitted a Bid Proposal by the due date and time. The Notice of Intent to Award does not constitute the formation of a contract between the Agency and the apparent successful bidder.

2.25 Acceptance Period.

The Agency shall make a good faith effort to negotiate and execute the contract. If the apparent successful bidder fails to negotiate and execute a contract, the Agency may, in its sole discretion, revoke the Notice of Intent to Award and negotiate a contract with another bidder or withdraw the RFP. The Agency further reserves the right to cancel the Notice of Intent to Award at any time prior to the execution of a written contract.

2.26 Review of Notice of Disqualification or Notice of Intent to Award Decision.

Bidders may request reconsideration of either a notice of disqualification or notice of intent to award decision by submitting a written request to the Agency:

Bureau Chief

c/o Bureau of Service Contract Support

Department of Human Services

Hoover State Office Building, 1st Floor

1305 E. Walnut Street

Des Moines, Iowa 50319-0114

email: [reconsiderationrequest@dhs.state.ia.us](mailto:reconsiderationrequest@dhs.state.ia.us)

The Agency must receive the written request for reconsideration within five days from the date of the notice of disqualification or notice of intent to award decision, whichever is earlier. The written request may be mailed, emailed, or delivered. It is the bidder’s responsibility to assure timely delivery of the request for reconsideration. The request for reconsideration shall clearly and fully identify all issues being contested by reference to the page and section number of the RFP. If a bidder submitted multiple Bid Proposals and requests that the Agency reconsider a notice of disqualification or notice of intent to award decision for more than one Bid Proposal, a separate written request shall be submitted for each. At the Agency’s discretion, requests for reconsideration from the same bidder may be reviewed separately or combined into one response. The Agency will expeditiously address the request for reconsideration and issue a decision. The bidder may choose to file an appeal with the Agency within five days of the date of the decision on reconsideration in accordance with 441 IAC 7.41 et seq.

2.27 Definition of Contract.

The full execution of a written contract shall constitute the making of a contract for services and no bidder shall acquire any legal or equitable rights relative to the contract services until the contract has been fully executed by the apparent successful bidder and the Agency.

2.28 Choice of Law and Forum.

This RFP and the resulting contract are to be governed by the laws of the State of Iowa without giving effect to the conflicts of law provisions thereof. Changes in applicable laws and rules may affect the negotiation and contracting process and the resulting contract. Bidders are responsible for ascertaining pertinent legal requirements and restrictions. Any and all litigation or actions commenced in connection with this RFP shall be brought and maintained in the appropriate Iowa forum.

2.29 Restrictions on Gifts and Activities.

Iowa Code chapter 68B restricts gifts that may be given or received by state employees and requires certain individuals to disclose information concerning their activities with state government. Bidders must determine the applicability of this Chapter to their activities and comply with the requirements. In addition, pursuant to Iowa Code § 722.1, it is a felony offense to bribe or attempt to bribe a public official.

2.30 Exclusivity.

Any contract resulting from this RFP shall not be an exclusive contract.

2.31 No Minimum Guaranteed.

The Agency anticipates that the selected bidder will provide services as requested by the Agency. The Agency does not guarantee that any minimum compensation will be paid to the bidder or any minimum usage of the bidder’s services.

2.32 Use of Subcontractors.

The Agency acknowledges that the selected bidder may contract with third parties for the performance of any of the Contractor’s obligations. The Agency reserves the right to provide prior approval for any subcontractor used to perform services under any contract that may result from this RFP.

2.33 Bidder Continuing Disclosure Requirement.

To the extent that bidders are required to report incidents when responding to this RFP related to damages, penalties, disincentives, administrative or regulatory proceedings, founded child or dependent adult abuse, or felony convictions, these matters are subject to continuing disclosure to the Agency. Incidents occurring after submission of a Bid Proposal, and with respect to the successful bidder after the execution of a contract, shall be disclosed in a timely manner in a written statement to the Agency. For purposes of this subsection, timely means within thirty (30) days from the date of conviction, regardless of appeal rights.

Section 3 How to Submit A Bid Proposal: Format and Content Specifications

These instructions provide the format and technical specifications of the Bid Proposal and are designed to facilitate the submission of a Bid Proposal that is easy to understand and evaluate.

3.1 Bid Proposal Formatting.

| **Subject** | **Specifications** | |
| --- | --- | --- |
| **Paper Size** | 8.5" x 11" paper (one side only). Charts or graphs may be provided on legal-sized paper. | |
| **Font** | Bid Proposals must be typewritten. The font must be 11 point or larger (excluding charts, graphs, or diagrams). Acceptable fonts include Times New Roman, Calibri and Arial. | |
| **Page Limit** | The Bid Proposal is limited to 250 pages. Resumes, RFP Forms, and Section 3.2.4.1 special submissions will not count toward the page limit. | |
| **Pagination** | | | All pages are to be sequentially numbered from beginning to end (do not number Proposal sections independently of each other). |
| **Bid Proposal General Composition** | | | * Bid Proposals shall be divided into two parts: Technical Proposal and Cost Proposal. * Technical Proposals submitted in multiple volumes shall be numbered in the following fashion: 1 of 4, 2 of 4, etc. * Bid Proposals must be bound and use tabs to label sections. |
| **Envelope Contents and Labeling** | | | * Envelopes shall be addressed to the Issuing Officer. * The envelope containing the original Bid Proposal shall be labeled “original” and each envelope containing a copy of the Bid Proposal shall be labeled “copy.” Each envelope must be numbered to correspond with the number of copies of Proposals. * The Technical and Cost Proposals must be packaged separately with each copy in its own envelope. |
| **Number of Hard Copies** | | | Submit one (1) original hard copy of the Proposal and 3 identical copies of the original. The original hard copy must contain original signatures. |
| **CD-ROM/USB Flash Drive** | | | * The Technical Proposal and Cost Proposal must be provided on separate CD(s) or USB flash drives. The CD-ROM or USB flash drives must be placed in the envelope with the original Bid Proposal. * The Technical Proposal must be saved in less than five files. The CD(s) or USB flash drives must be compatible with Microsoft Office 2007 (or later) software. Proposals shall be provided in Microsoft Word format. An additional Proposal copy may be submitted in PDF format. Files shall not be password protected or saved with restrictions that prevent copying, saving, highlighting, or reprinting of the contents. |
| **Request for Confidential Treatment** | | | Requests for confidential treatment of any information in a Bid Proposal must meet these specifications:   * The bidder will complete the appropriate section of the Primary Bidder Detail Form & Certificationwhich requires the specific statutory basis supporting the request for confidential treatment and an explanation of why disclosure of the information is not in the best interest of the public. * The bidder shall submit one (1) complete paper copy of the Bid Proposal from which confidential information has been redacted. This copy shall be clearly labeled on the cover as a “public copy”, and each page upon which confidential information appears shall be conspicuously marked as containing confidential information. The confidential material shall be redacted in such a way as to allow the public to determine the general nature of the material removed. To the extent possible, pages should be redacted sentence by sentence unless all material on a page is clearly confidential under the law. The bidder shall not identify the entire Bid Proposal as confidential. * The Cost Proposal will be part of the ultimate contract entered into with the successful bidder. Pricing information may not be designated as confidential material. However, Cost Proposal supporting materials may be marked confidential if consistent with applicable law. * The bidder shall submit a CD-ROM or USB flash drive containing an electronic copy of the Bid Proposal from which confidential information has been redacted. This CD-ROM or USB flash drive shall be clearly marked as a “public copy”. |
| **Exceptions to RFP/Contract Language** | | | If the bidder objects to any term or condition of the RFP or attached Sample Contract, specific reference to the RFP page and section number shall be made in the Primary Bidder Detail & Certification Form. In addition, the bidder shall set forth in its Bid Proposal the specific language it proposes to include in place of the RFP or contract provision and cost savings to the Agency should the Agency accept the proposed language.  The Agency reserves the right to either execute a contract without further negotiation with the successful bidder or to negotiate contract terms with the selected bidder if the best interests of the Agency would be served. |

3.2 Contents and Organization of Technical Proposal.

This section describes the information that must be in the Technical Proposal. Bid Proposals should be organized into sections **in the same order provided here** using tabs to separate each section.

3.2.1 Information to Include Behind Tab 1:

**Transmittal Letter.**

The transmittal letter serves as a cover letter for the Technical Proposal. It must consist of an executive summary that briefly reviews the strengths of the bidder and key features of its proposed approach to meet the specifications of this RFP.

**3.2.2 Information to Include Behind Tab 2: Proposal Table of Contents.**

The Bid Proposal must contain a table of contents.

3.2.3 Information to Include Behind Tab 3: RFP Forms.

The forms listed below are attachments to this RFP. Fully complete and return these forms behind Tab 3:

* Release of Information Form
* Primary Bidder Detail & Certification Form
* Subcontractor Disclosure Form (one for each proposed subcontractor)
* Certification and Disclosure Regarding Lobbying

3.2.4 Information to Include Behind Tab 4: Bidder’s Approach to Meeting Deliverables.

The bidder shall address each Deliverable that the successful contractor will perform as listed in *Attachment G: Sample Contract, Section 1.3.1* (Deliverables) by first restating the Deliverable from the RFP and then detailing the bidder’s planned approach to meeting each contractor Deliverable immediately after the restated text. Bid responses should provide sufficient detail so that the Agency can understand and evaluate the bidder’s approach, and should not merely repeat the Deliverable.

Bidders are given wide latitude in the degree of detail they offer or the extent to which they reveal plans, designs, examples, processes, and procedures. Bidders do not need to address any responsibilities that are specifically designated as Agency responsibilities.

**Note:**

* Responses to Deliverables shall be in the same sequence as presented in the RFP.
* Bid Proposals shall identify any deviations from the specifications the bidder cannot satisfy.
* Bid Proposals shall not contain promotional or display materials unless specifically required.
* If a bidder proposes more than one method of meeting the RFP requirements, each method must be drafted and submitted as separate Bid Proposals. Each will be evaluated separately.

**3.2.4.1 Special Submissions.**

The bidder shall also provide behind Tab 4 the following information:

**3.2.4.1.1** Draft project work plans detailing activities and timelines, to include:

* Transition Plan
* Systems Implementation Plan
* Operations Plan

**3.2.4.1.2** Proof of licensure for Estate Recovery and Trust Operations staff.

3.2.5 Information to Include Behind Tab 5: Bidder’s Background.

The bidder shall provide the information set forth in this section regarding its experience and background.

**3.2.5.1 Experience.**

The bidder shall provide the following information regarding the organization’s experience:

3.2.5.1.1 Level of technical experience in providing the types of services sought by the RFP.

3.2.5.1.2 Description of all services similar to those sought by this RFP that the bidder has provided to other businesses or governmental entities within the last twenty-four (24) months.

For each similar service, provide a matrix detailing:

1. Project title;
2. Project role (primary contractor or subcontractor);
3. Name of client agency or business;
4. General description of the scope of work**;**
5. Start and end dates of contract for services as originally entered into between the parties;
6. If the contract was terminated for any reason before completion of all obligations under the contract provisions, detail the reason(s) for the termination**;**
7. Contract value;
8. Whether the services were provided timely and within budget;
9. Any damages, penalties, disincentives assessed, or payments withheld, or anything of value traded or given up by the bidder that were valued at or above $500,000. Include the estimated cost assessed against the bidder for the incident with the details of the occurrence;
10. List administrative or regulatory proceedings or adjudicated matters related to this service to which the bidder has been a party; and
11. Contact information for the client’s project manager including address, telephone number, and electronic mail address.

**3.2.5.1.3** List any details of whether the bidder or any owners, officers, primary partners, staff providing services or any owners, officers, primary partners, or staff providing services of any subcontractor who may be involved with providing the services sought in this RFP, have ever had a founded child or dependent adult abuse report, or been convicted of a felony.

3.2.5.1.4 Letters of reference from three (3) of the bidder’s previous clients knowledgeable of the bidder’s performance in providing services similar to those sought in this RFP, including a contact person, telephone number, and electronic mail address for each reference. It is preferred that letters of reference are provided for services that were procured in a competitive environment. Persons who are currently employed by the Agency are not eligible to be references.

3.2.5.1.5 Description of experience managing subcontractors, if the bidder proposes to use subcontractors.

**3.2.5.2 Personnel.**

The bidder shall provide the following information regarding personnel:

**3.2.5.2.1 Tables of Organization.**

Illustrate the lines of authority in two tables:

* One showing overall operations
* Oneshowing staff who will provide services under the RFP

**3.2.5.2.2 Reserved.**

**3.2.5.2.3 Information About Project Manager and Key Project Personnel.**

* Include names and credentials for the project manager and any additional key project personnel who will be involved in providing services sought by this RFP. Include resumes for these personnel. The resumes shall include: name, education, and years of experience and employment history, particularly as it relates to the scope of services specified herein. Resumes shall also include the percentage of time the person would be specifically dedicated to this project, if the bidder is selected as the successful bidder. Resumes should not include social security numbers.
* Include the project manager’s experience managing subcontractor staff if the bidder proposes to use subcontractors.
* Include the percentage of time the project manager and key project personnel will devote to this project on a monthly basis.

**3.2.5.3 Reserved.**

3.3 Cost Proposal.

**Content and Format.**

The Cost Proposal shall be submitted using the pricing worksheet set forth in Attachment F of this RFP. Bidders should submit an Excel version of Attachment F.

The Bidder’s Cost Proposal shall include all charges of any kind associated with the goods and services offered by the bidder in order to meet all RFP requirements. Contingency fees are to be inclusive of all administrative costs and legal fees. Bidders are instructed to not bid a cost for the transition period prior to start of operations. Any charges associated with the Contract transition period shall be reflected in operations costs beginning July 1, 2018. The Agency will not be liable for any fees or charges for the goods and services offered by the bidder that are not set forth in the Cost Proposal, to include any licensing fees for Contractor solutions.

Section 4 Evaluation Of Bid Proposals

4.1 Introduction.

This section describes the evaluation process that will be used to determine which Bid Proposal provides the greatest benefit to the Agency. When making this determination, the Agency will not necessarily award a contract to the bidder offering the lowest cost to the Agency or to the bidder with the highest point total. Rather, a contract will be awarded to the bidder that offers the greatest benefit to the Agency.

4.2 Evaluation Committee.

The Agency intends to conduct a comprehensive, fair and impartial evaluation of Bid Proposals received in response to this RFP. In making this determination, the Agency will be represented by an evaluation committee.

4.3 Proposal Scoring and Evaluation Criteria.

The evaluation committee will use the method described in this section to assist with initially determining the relative merits of each Bid Proposal.

**Scoring Guide.**

Points will be assigned to each evaluation component as follows, unless otherwise designated:

|  |  |
| --- | --- |
| 4 | Bidder has agreed to comply with the requirements and provided a clear and compelling description of how each requirement would be met, with relevant supporting materials. Bidder’s proposed approach frequently goes above and beyond the minimum requirements and indicates superior ability to serve the needs of the Agency. |
| 3 | Bidder has agreed to comply with the requirements and provided a good and complete description of how the requirements would be met. Response clearly demonstrates a high degree of ability to serve the needs of the Agency. |
| 2 | Bidder has agreed to comply with the requirements and provided an adequate description of how the requirements would be met. Response indicates adequate ability to serve the needs of the Agency. |
| 1 | Bidder has agreed to comply with the requirements and provided some details on how the requirements would be met. Response does not clearly indicate if all the needs of the Agency will be met. |
| 0 | Bidder has not addressed any of the requirements or has provided a response that is limited in scope, vague, or incomplete. Response did not provide a description of how the Agency’s needs would be met. |

**Technical Proposal Components.**

When Bid Proposals are evaluated, the total points for each component are comprised of the component’s assigned weight multiplied by the score the Bid Proposal earns. Points for all components will be added together. The evaluation components, including maximum points that may be awarded, are as follows:

|  |  |  |  |
| --- | --- | --- | --- |
| **Technical Proposal Components** | **Weight** | **Score (0-4)** | **Potential Maximum Points** |
| **Bidder’s Approach to Meeting Deliverables (Section 3.2.4) and Special Submissions (Section 3.2.4.1)** |  |  |  |
| **Scope of Work – Attachment G: Sample Contract** |  |  |  |
| * General Obligations (Section 1.3.1.1) | 50 |  | **200** |
| * Transition (Section 1.3.1.2) | 20 |  | **80** |
| * TPL Identification and Verification (Section 1.3.1.3.A) | 60 |  | **240** |
| * TPL Recoveries (Section 1.3.1.3.B) | 60 |  | **240** |
| * Premium Payment Processing (Section 1.3.1.3.C) | 20 |  | **80** |
| * Provider Overpayment and Withholds   (Sections 1.3.1.3.D and E) | 40 |  | **160** |
| * Insurance Data Match for the ***hawk-i*** Program   (Section 1.3.1.4) | 40 |  | **160** |
| * Estate Recovery and Trust Operations (Section 1.3.1.5) | 120 |  | **480** |
| * Turnover (Section 1.3.1.6) | 10 |  | **40** |
| **Bidder’s Background (Section 3.2.5)** |  |  |  |
| * Experience (Section 3.2.5.1) | 150 |  | **600** |
| * Personnel (Section 3.2.5.2) | 130 |  | **520** |
| **Total Potential Score** | 700 |  | **2,800** |

**Scoring of Cost Proposal Pricing.**

Cost Proposal pricing will be scored based on a ratio of the lowest Cost Proposal versus the cost of each higher priced Bid Proposal. Under this formula, the lowest Cost Proposal receives all of the points assigned to pricing. A Cost Proposal twice as expensive as the lowest Cost Proposal would earn half of the available points. The formula is:

**Weighted Cost Score = (price of lowest Cost Proposal/price of each higher priced Cost Proposal) X (points assigned to pricing)**

**Total Points Assigned to Pricing: 1,200.**

**Total Points Possible for Technical and Cost Proposals: 4,000**

4.4 Recommendation of the Evaluation Committee.

The evaluation committee shall present a final ranking and recommendation(s) to the Medicaid Director for consideration. In making this recommendation, the committee is not bound by any scores or scoring system used to assist with initially determining the relative merits of each Bid Proposal. This recommendation may include, but is not limited to, the name of one or more bidders recommended for selection or a recommendation that no bidder be selected. The Medicaid Director shall consider the committee’s recommendation when making the final decision, but is not bound by the recommendation.

# Attachment A: Release of Information

*(Return this completed form behind Tab 3 of the Bid Proposal.)*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name of bidder) hereby authorizes any person or entity, public or private, having any information concerning the bidder’s background, including but not limited to its performance history regarding its prior rendering of services similar to those detailed in this RFP, to release such information to the Agency.

The bidder acknowledges that it may not agree with the information and opinions given by such person or entity in response to a reference request. The bidder acknowledges that the information and opinions given by such person or entity may hurt its chances to receive contract awards from the Agency or may otherwise hurt its reputation or operations. The bidder is willing to take that risk. The bidder agrees to release all persons, entities, the Agency, and the State of Iowa from any liability whatsoever that may be incurred in releasing this information or using this information.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Printed Name of Bidder Organization

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of Authorized Representative Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Printed Name

# Attachment B: Primary Bidder Detail & Certification Form

*(Return this completed form behind Tab 3 of the Proposal. If a section does not apply, label it “not applicable”.)*

|  |  |  |
| --- | --- | --- |
| **Primary Contact Information (individual who can address issues re: this Bid Proposal)** | | |
| **Name:** |  | |
| **Address:** |  | |
| **Tel:** |  | |
| **Fax:** |  | |
| **E-mail:** |  | |
| **Primary Bidder Detail** | | |
| **Business Legal Name (“Bidder”):** | |  |
| **“Doing Business As” names, assumed names, or other operating names:** | |  |
| **Parent Corporation Name and Address of Headquarters, if any:** | |  |
| **Form of Business Entity (i.e., corp., partnership, LLC, etc.):** | |  |
| **State of Incorporation/organization:** | |  |
| **Primary Address:** | |  |
| **Tel:** | |  |
| **Local Address (if any):** | |  |
| **Addresses of Major Offices and other facilities that may contribute to performance under this RFP/Contract:** | |  |
| **Number of Employees:** | |  |
| **Number of Years in Business:** | |  |
| **Primary Focus of Business:** | |  |
| **Federal Tax ID:** | |  |
| **DUNS #:** | |  |
| **Bidder’s Accounting Firm:** | |  |
| **If Bidder is currently registered to do business in Iowa, provide the Date of Registration:** | |  |
| **Do you plan on using subcontractors if awarded this Contract? {If “YES,” submit a Subcontractor Disclosure Form for each proposed subcontractor.}** | |  |
|  | | (YES/NO) |

|  |  |  |
| --- | --- | --- |
| **Request for Confidential Treatment (See Section 3.1)** | | |
| **Location in Bid (Tab/Page)** | **Statutory Basis for Confidentiality** | **Description/Explanation** |
|  |  |  |

|  |  |  |  |
| --- | --- | --- | --- |
| **Exceptions to RFP/Contract Language (See Section 3.1)** | | | |
| **RFP Section and Page** | **Language to Which Bidder Takes Exception** | **Explanation and Proposed Replacement Language:** | **Cost Savings to the Agency if the Proposed Replacement Language is Accepted** |
|  |  |  |  |

**PRIMARY BIDDER CERTIFICATIONS**

1. **BID PROPOSAL CERTIFICATIONS. By signing below, Bidder certifies that:** 
   1. Bidder specifically stipulates that the Bid Proposal is predicated upon the acceptance of all terms and conditions stated in the RFP and the Sample Contract without change except as otherwise expressly stated in the Primary Bidder Detail & Certification Form. Objections or responses shall not materially alter the RFP. All changes to proposed contract language, including deletions, additions, and substitutions of language, must be addressed in the Bid Proposal. The bidder accepts and shall comply with all Contract Terms and Conditions contained in the Sample Contract without change except as set forth in the Contract;
   2. Bidder has reviewed the Additional Certifications, which are incorporated herein by reference, and by signing below represents that Bidder agrees to be bound by the obligations included therein;
   3. Bidder has received any amendments to this RFP issued by the Agency;
   4. No cost or pricing information has been included in the Bidder’s Technical Proposal; and,
   5. The person signing this Bid Proposal certifies that he/she is the person in the Bidder’s organization responsible for, or authorized to make decisions regarding the prices quoted and, Bidder guarantees the availability of the services offered and that all Bid Proposal terms, including price, will remain firm until a contract has been executed for the services contemplated by this RFP or one year from the issuance of this RFP, whichever is earlier.
2. **SERVICE AND REGISTRATION CERTIFICATIONS. By signing below, Bidder certifies that:** 
   1. Bidder certifies that the Bidder organization has sufficient personnel resources available to provide all services proposed by the Bid Proposal, and such resources will be available on the date the RFP states services are to begin. Bidder guarantees personnel proposed to provide services will be the personnel providing the services unless prior approval is received from the Agency to substitute staff;
   2. Bidder certifies that if the Bidder is awarded the contract and plans to utilize subcontractors at any point to perform any obligations under the contract, the Bidder will (1) notify the Agency in writing prior to use of the subcontractor, and (2) apply all restrictions, obligations, and responsibilities of the resulting contract between the Agency and contractor to the subcontractors through a subcontract. The contractor will remain responsible for all Deliverables provided under this contract;
   3. Bidder either is currently registered to do business in Iowa or agrees to register if Bidder is awarded a Contract pursuant to this RFP; and,
   4. Bidder certifies it is either a) registered or will become registered with the Iowa Department of Revenue to collect and remit Iowa sales and use taxes as required by Iowa Code chapter 423; or b) not a “retailer” of a “retailer maintaining a place of business in this state” as those terms are defined in Iowa Code subsections 423.1(42) & (43). The Bidder also acknowledges that the Agency may declare the bid void if the above certification is false. Bidders may register with the Department of Revenue online at: <http://www.state.ia.us/tax/business/business.html>.
3. **EXECUTION.**

By signing below, I certify that I have the authority to bind the Bidder to the specific terms, conditions and technical specifications required in the Agency’s Request for Proposals (RFP) and offered in the Bidder’s Proposal. I understand that by submitting this Bid Proposal, the Bidder agrees to provide services described herein which meet or exceed the specifications of the Agency’s RFP unless noted in the Bid Proposal and at the prices quoted by the Bidder. The Bidder has not participated, and will not participate, in any action contrary to the anti-competitive obligations outlined in the Additional Certifications. I certify that the contents of the Bid Proposal are true and accurate and that the Bidder has not made any knowingly false statements in the Bid Proposal.

|  |  |
| --- | --- |
| **Signature:** |  |
| **Printed Name/Title:** |  |
| **Date:** |  |

# Attachment C: Subcontractor Disclosure Form

*(Return this completed form behind Tab 3 of the Bid Proposal. Fully complete a form for* ***each*** *proposed subcontractor. If a section does not apply, label it “not applicable.” If the bidder does not intend to use subcontractor(s), this form does not need to be returned.*)

|  |  |
| --- | --- |
| **Primary Bidder (“Primary Bidder”):** |  |
| **Subcontractor Contact Information (individual who can address issues re: this RFP)** | |
| **Name:** |  |
| **Address:** |  |
| **Tel:** |  |
| **Fax:** |  |
| **E-mail:** |  |

|  |  |
| --- | --- |
| **Subcontractor Detail** | |
| **Subcontractor Legal Name (“Subcontractor”):** |  |
| **“Doing Business As” names, assumed names, or other operating names:** |  |
| **Form of Business Entity (i.e., corp., partnership, LLC, etc.)** |  |
| **State of Incorporation/organization:** |  |
| **Primary Address:** |  |
| **Tel:** |  |
| **Fax:** |  |
| **Local Address (if any):** |  |
| **Addresses of Major Offices and other facilities that may contribute to performance under this RFP/Contract:** |  |
| **Number of Employees:** |  |
| **Number of Years in Business:** |  |
| **Primary Focus of Business:** |  |
| **Federal Tax ID:** |  |
| **Subcontractor’s Accounting Firm:** |  |
| **If Subcontractor is currently registered to do business in Iowa, provide the Date of Registration:** |  |
| **Percentage of Total Work to be performed by this Subcontractor pursuant to this RFP/Contract.** |  |
| **General Scope of Work to be performed by this Subcontractor** | |
|  | |
| **Detail the Subcontractor’s qualifications for performing this scope of work** | |
|  | |

By signing below, Subcontractor agrees to the following:

1. Subcontractor has reviewed the RFP, and Subcontractor agrees to perform the work indicated in this Bid Proposal if the Primary Bidder is selected as the winning bidder in this procurement;
2. Subcontractor has reviewed the Additional Certifications and by signing below confirms that the Certifications are true and accurate and Subcontractor will comply with all such Certifications;
3. Subcontractor recognizes and agrees that if the Primary Bidder enters into a contract with the Agency as a result of this RFP, all restrictions, obligations, and responsibilities of the contractor under the contract shall also apply to the subcontractor; and,
4. Subcontractor agrees that it will register to do business in Iowa before performing any services pursuant to this contract, if required to do so by Iowa law.

The person signing this Subcontractor Disclosure Form certifies that he/she is the person in the Subcontractor’s organization responsible for or authorized to make decisions regarding the prices quoted and the Subcontractor has not participated, and will not participate, in any action contrary to the anti-competitive obligations outlined in the Additional Certifications.

I hereby certify that the contents of the Subcontractor Disclosure Form are true and accurate and that the Subcontractor has not made any knowingly false statements in the Form.

|  |  |
| --- | --- |
| **Signature for Subcontractor:** |  |
| **Printed Name/Title:** |  |
| **Date:** |  |

# Attachment D: Additional Certifications

*(Do not return this page with the Bid Proposal.)*

**CERTIFICATION OF INDEPENDENCE AND NO CONFLICT OF INTEREST**

By submission of a Bid Proposal, the bidder certifies (and in the case of a joint proposal, each party thereto certifies) that:

1. The Bid Proposal has been developed independently, without consultation, communication or agreement with any employee or consultant of the Agency who has worked on the development of this RFP, or with any person serving as a member of the evaluation committee;
2. The Bid Proposal has been developed independently, without consultation, communication or agreement with any other bidder or parties for the purpose of restricting competition;
3. Unless otherwise required by law, the information in the Bid Proposal has not been knowingly disclosed by the bidder and will not knowingly be disclosed prior to the award of the contract, directly or indirectly, to any other bidder;
4. No attempt has been made or will be made by the bidder to induce any other bidder to submit or not to submit a Bid Proposal for the purpose of restricting competition;
5. No relationship exists or will exist during the contract period between the bidder and the Agency that interferes with fair competition or is a conflict of interest.
6. The bidder and any of the bidder’s proposed subcontractors have no other contractual relationships which would create an actual or perceived conflict of interest.

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION -- LOWER TIER COVERED TRANSACTIONS**

By signing and submitting this Bid Proposal, the bidder is providing the certification set out below:

1. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the bidder knowingly rendered an erroneous certification, in addition to other remedies available to the federal government the Agency or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
2. The bidder shall provide immediate written notice to the person to whom this Bid Proposal is submitted if at any time the bidder learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principle, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this Proposal is submitted for assistance in obtaining a copy of those regulations.
4. The bidder agrees by submitting this Proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Agency or agency with which this transaction originated.
5. The bidder further agrees by submitting this Proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. A participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
7. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
8. Except for transactions authorized under paragraph 4 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the Agency or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND/OR VOLUNTARY EXCLUSION--LOWER TIER COVERED TRANSACTIONS**

1. The bidder certifies, by submission of this Proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
2. Where the bidder is unable to certify to any of the statements in this certification, such bidder shall attach an explanation to this Proposal.

**CERTIFICATION OF COMPLIANCE WITH PRO-CHILDREN ACT OF 1994**

The bidder must comply with Public Law 103-227, Part C Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act). This Act requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by federal programs either directly or through State or local governments. Federal programs include grants, cooperative agreements, loans or loan guarantees, and contracts. The law also applies to children’s services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children’s services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities (other than clinics) where WIC coupons are redeemed.

The bidder further agrees that the above language will be included in any subawards that contain provisions for children’s services and that all subgrantees shall certify compliance accordingly. Failure to comply with the provisions of this law may result in the imposition of a civil monetary penalty of up to $1000 per day.

**CERTIFICATION REGARDING DRUG FREE WORKPLACE**

1. **Requirements for Contractors Who are Not Individuals.** If the bidder is not an individual, by signing below bidder agrees to provide a drug-free workplace by:
2. publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person’s workplace and specifying the actions that will be taken against employees for violations of such prohibition;
3. establishing a drug-free awareness program to inform employees about:

(1) the dangers of drug abuse in the workplace;

(2) the person’s policy of maintaining a drug- free workplace;

(3) any available drug counseling, rehabilitation, and employee assistance programs; and

(4) the penalties that may be imposed upon employees for drug abuse violations;

1. making it a requirement that each employee to be engaged in the performance of such contract be given a copy of the statement required by subparagraph (a);
2. notifying the employee in the statement required by subparagraph (a), that as a condition of employment on such contract, the employee will:

(1) abide by the terms of the statement; and

(2) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction;

1. notifying the contracting agency within 10 days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction;
2. imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by 41 U.S.C. § 703; and
3. making a good faith effort to continue to maintain a drug-free workplace through implementation of subparagraphs (a), (b), (c), (d), (e), and (f).
4. **Requirement for Individuals.** If the bidder is an individual, by signing below the bidder agrees to not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of the contract.
5. **Notification Requirement.** The bidder shall, within 30 days after receiving notice from an employee of a conviction pursuant to 41 U.S.C. § 701(a)(1)(D)(ii) or 41 U.S.C. § 702(a)(1)(D)(ii):
6. take appropriate personnel action against such employee up to and including termination; or
7. require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

**NON-DISCRIMINATION**

The bidder does not discriminate in its employment practices with regard to race, color, religion, age (except as provided by law), sex, marital status, political affiliation, national origin, or handicap.

# Attachment E: Certification and Disclosure Regarding Lobbying

*(Return this executed form behind Tab 3 of the Bid Proposal.)*

**Instructions:**

Title 45 of the Code of Federal Regulations, Part 93 requires the bidder to include a certification form, and a disclosure form, if required, as part of the bidder’s proposal. Award of the federally funded contract from this RFP is a Covered Federal action.

1. The bidder shall file with the Agency this certification form, as set forth in Appendix A of 45 CFR Part 93, certifying the bidder, including any subcontractor(s) at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) have not made, and will not make, any payment prohibited under 45 CFR § 93.100.
2. The bidder shall file with the Agency a disclosure form, set forth in Appendix B of 45 CFR Part 93, in the event the bidder or subcontractor(s) at any tier (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) has made or has agreed to make any payment using non-appropriated funds, including profits from any covered Federal action, which would be prohibited under 45 CFR § 93.100 if paid for with appropriated funds. All disclosure forms shall be forwarded from tier to tier until received by the bidder and shall be treated as a material representation of fact upon which all receiving tiers shall rely.

**Certification for Contracts, Grants, Loans, and Cooperative Agreements**

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, ‘‘Disclosure Form to Report Lobbying,’’ in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

***Statement for Loan Guarantees and Loan Insurance***

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, ‘‘Disclosure Form to Report Lobbying,’’ in accordance with its instructions.

Submission of this statement is a pre-requisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 for each such failure.

I certify that the contents of this certification are true and accurate and that the bidder has not made any knowingly false statements in the Bid Proposal. I am checking the appropriate box below regarding disclosures required in Title 45 of the Code of Federal Regulations, Part 93.

🞏 The bidder is NOT including a disclosure form as referenced in this form’s instructions because the bidder is NOT required by law to do so.

🞏 The bidder IS filing a disclosure form with the Agency as referenced in this form’s instructions because the bidder IS required by law to do so. If the bidder is filing a disclosure form, place the form immediately behind this Attachment E in the Proposal.

|  |  |
| --- | --- |
| **Signature:** |  |
| **Printed Name/Title:** |  |
| **Date:** |  |

**Attachment F: Cost Proposal Form**

Note: this Pricing Schedule is for example purposes only. Bidders must complete the Excel spreadsheet entitled Attachment F posted on the State’s procurement website.



# 

# Attachment G: Sample Contract

*(These contract terms contained in the Special Terms and General Terms for Services Contracts are not intended to be a complete listing of all contract terms but are provided only to enable bidders to better evaluate the costs associated with the RFP and the potential resulting contract. Bidders should plan on such terms being included in any contract entered into as a result of this RFP. All costs associated with complying with these terms should be included in the Cost Proposal or any pricing quoted by the bidder. See RFP Section 3.1 regarding bidder exceptions to contract language.)*

***This is a sample form. DO NOT complete and return this attachment.***

**CONTRACT DECLARATIONS AND EXECUTION**

|  |  |
| --- | --- |
| **RFP #** | **Contract #** |
| MED-18-018 | *{To be completed when contract is drafted.}* |
| **Title of Contract** | |
| *{To be completed when contract is drafted.}* | |

This Contract must be signed by all parties before the Contractor provides any Deliverables. The Agency is not obligated to make payment for any Deliverables provided by or on behalf of the Contractor before the Contract is signed by all parties. This Contract is entered into by the following parties:

|  |
| --- |
| **Agency of the State (hereafter “Agency”)** |
| Iowa Department of Human Services | | |
| **Contractor: (hereafter “Contractor”)** |
|  | | |
| **Contract Information** |
| Start Date: *{To be completed when contract is drafted.}* | | **End Date of Base Term of Contract:**  End Date of Contract:  *{To be completed when contract is drafted.}* | |
| **Possible Extension(s):** | | | |
| **Contractor a Business Associate?** Yes | | **Contractor subject to Iowa Code Chapter 8F?** No | |
| **Contract Include Sharing SSA Data?** No | | **Contractor a Qualified Service Organization?** Yes | |
| **Contract Warranty Period (hereafter “Warranty Period”):** The term of this Contract, including any extensions. | | **Contract Contingent on Approval of Another Agency:**  No | |
| **Security & Privacy Office Data Confirmation Number:**  \*\*\* | |
| **Contract Payments include Federal Funds?** Yes  **The contractor for federal reporting purposes under this contract is a:** Subrecipient or vendor *{To be completed when contract is drafted.}*  **DUNS#:** *{To be completed when contract is drafted.}*  **Office of Child Support Enforcement (“OCSE”) Funded Percentage:** *{To be completed when contract is drafted if applicable.}*  **The Name of the Pass-Through Entity:** *{To be completed when contract is drafted.}*  **CFDA #:** *{To be completed when contract is drafted.}*  **Grant Name:** *{To be completed when contract is drafted.}*  **Federal Awarding Agency Name:** *{To be completed when contract is drafted.}* | | | |

This Contract consists of the above information, the attached General Terms for Services Contracts, Special Terms, and all Special Contract Attachments.

**SECTION 1: SPECIAL TERMS**

***1.1***Special Terms Definitions.

***“Business Hours”*** means 8:00 AM thru 5:00 PM Central Time, Monday through Friday, excluding State holidays.

***“Coordination of Benefits Agreement”*** or ***“COBA”*** is a file that standardizes the way that eligibility and Medicare claims payment information within a claims crossover context is exchanged with CMS.

***“EPSDT”*** is the Early and Periodic Screening, Diagnosis, and Treatment benefit that provides comprehensive and preventive health care services for children under age 21 who are enrolled in Medicaid.

***“Healthy Behaviors”*** are actions Members must complete in order to continue receiving free coverage under the Iowa Health and Wellness Plan after the first year of coverage. These actions include completing a health risk assessment and a wellness exam. More information can be found at this link: <http://dhs.iowa.gov/ime/about/iowa-health-and-wellness-plan/healthybehaviorsprogram>.

***“HIPP”*** is the Health Insurance Premium Payment program.

***“Home and Community-based Services (HCBS) Programs*** are for people with disabilities and older Iowans who need services to allow them to stay in their home and community instead of going to an institution. LTSS are delivered through seven 1915(c) waiver programs and five non-waiver programs. More information can be found at this link: <http://dhs.iowa.gov/ime/members/medicaid-a-to-z/hcbs>.

**HCBS Waiver Programs.** Under HCBS waiver programs, Iowa can waive certain Medicaid program requirements, allowing the State to provide care for people who might not otherwise be eligible under Medicaid. Through the following 1915(c) waivers, Iowa targets services to people who need LTSS:

|  |  |
| --- | --- |
| * + AIDS/HIV   + Brain Injury   + Children’s Mental Health   + Elderly | * + Health and Disability   + Intellectual Disability   + Physical Disability |

**HCBS Non-waiver Programs** include:

* Habilitation Services – State Plan 1915(i) program
* Home Health program (including EPSDT private duty nursing/personal cares)
* Hospice program
* Money Follows the Person (MFP) program
* Program of All-inclusive Care for the Elderly (PACE) program

***“IME Units”*** are the professional and system services contractors within the IME that perform the majority of Iowa Medicaid program business functions under performance-based contracts.

***“Iowa Health and Wellness Plan”*** or ***“IHAWP”*** provides comprehensive health coverage at low or no cost to Iowans between the ages of 19 and 64, who have an income that does not exceed 133 percent of the federal poverty level, and who are not otherwise eligible for Medicaid or Medicare. The majority of IHAWP Members are enrolled in managed care.

***“Member”*** means an individual enrolled in Iowa’s Medicaid, or CHIP (***hawk-i)*** Programs.

***“MEPD”*** is the Medicaid for Employed People with Disabilities program.

***“Service Organization Control 2”***or***“SOC 2”***means the internal controls in place at the third-party service organization. For a company to receive SOC 2 certification, it must have sufficient policies and strategies that satisfactorily protect the client’s data.

***1.2 Contract Purpose.***

*{To be completed when contract is drafted.}*

***1.3 Scope of Work.***

**1.3.1 Deliverables.**

The Contractor shall provide the following:

# 1.3.1.1 General Obligations

* 1. **Staffing.**

1. The Contractor shall designate individuals as “key personnel,” subject to Agency continued approval. The Agency reserves the right to interview any and all candidates for named key positions prior to approving the personnel. Special requirements for key personnel are as follows:
   1. Account Manager. Responsible for the overall service delivery of the team, complying with contractual requirements and meeting the Agency’s expectations. The Account Manager shall be responsible for Contract compliance and general project oversight. The Account Manager must adopt an exemplary behavior; also he or she must collaborate, and cultivate and promote the spirit of trust and professionalism with the Agency, other IME Units, and stakeholders. The Account Manager shall represent the Contractor and be the primary liaison with the Agency. Minimum qualifications include:
      1. Three years of experience in account management or major supervisory role for a government or private sector as a healthcare payer, including a minimum of three years of experience in a state of equivalent scope to Iowa.
      2. Bachelor’s Degree or at least 4 years relevant experience to the position.
      3. Previous management experience with Medicaid, specifically in third party liability, recoveries, and knowledge of HIPAA rules and requirements is desired.
   2. Transition Manager. Responsible for facilitating all planning and operational readiness activities necessary to ensure a successful transition. This position will no longer be required once the Contractor has successfully transitioned to operations. The Transition Manager may also serve as the Account or Operations Manager. Minimum qualifications include:
      1. Three years of experience in account management or major supervisory role for government or in the private sector as a healthcare payer or provider.
      2. Bachelor’s Degree or equivalent relevant experience to the position.
2. Operations Manager. Responsible for day to day project management and supervision. Minimum qualifications include:
   1. Four years of experience managing third party liability operations in a healthcare environment similar in scope and volume to the Iowa Medicaid Program. The experience shall include third party liability identification and verification, recoveries, quality management, and knowledge of HIPAA rules and requirements.
   2. Bachelor’s Degree or equivalent relevant experience to the position.
3. Named key personnel shall:
4. Be committed to the project full time and co-located with Agency staff at the Iowa Medicaid Enterprise (IME) permanent facility in Des Moines, Iowa;
5. Be available during Business Hours to respond to questions and concerns related to the Contract, except for routine absences or participation in required off-site meetings. Account Manager and Operations Manager positions are required to communicate absences with the Agency contract manager and provide suitable coverage during extended absences;
6. Provide policy advice and support to the Agency and participate in meetings with the Agency as subject matter expert;
7. Prepare and present status updates periodically to the Agency and other stakeholders, as requested by the Agency;
8. Comply with all timelines in the Agency-approved project work plans; and
9. Develop and maintain a plan for job rotation and knowledge transfer to ensure that all functions can be adequately performed during the absence of key personnel for vacation and other reasons. Any planned absences of key personnel shall be immediately communicated to the Agency. The Contractor shall ensure staff are trained and able to perform the functions of sensitive positions when the primary staff member is absent.
10. The Agency reserves the right of prior approval for any replacement of the key personnel:
11. The Contractor must commit named key personnel to the project on or before the conclusion of the transition period of the Contract and for at least six months, and must not replace key personnel during this period except in cases of termination, death, or the key person’s resignation;
12. The Contractor shall provide the Agency with a minimum of 15 days’ notice prior to any proposed transfer or replacement of named key personnel. At the time of providing notice, the Contractor shall also provide the Agency with the resumes and references of the proposed replacement of named key personnel;
13. Replacement personnel must be in place performing their new functions before the departure of the personnel they are replacing;
14. Replacement personnel shall have knowledge transfer, experience, and ability comparable to the person originally in the position; and
15. The Agency may waive requirements (a) through (d) above upon presentation of good cause by the Contractor. In those instances when good cause is granted, the Contractor commits to replacing key personnel within thirty days (30) of the departure of a key person and to providing temporary personnel in the interim that are capable of maintaining operational performance at acceptable levels.
16. The Contractor shall provide the following non-managerial positions:
    1. Trained staff with required legal authority and certification to act on behalf of the Agency for Section 1.3.1.5, Estate Recovery and Trust Operations. The Contractor shall act on behalf of the Agency in the following areas, but not limited to probate, hearings, trial, and appeals. Applicable staff shall remain in good standing with the Iowa Bar Association and the Iowa Attorney General’s Office.
    2. Sufficient staff to perform system updates, workflow changes, interface reporting management and maintenance, and technical assistance for TPL-related issues, as necessary to support Medicaid program management and federal reporting requirements; and
    3. Quality assurance/quality control staff with experience developing, executing and reporting formal quality assurance plans.
17. The Contractor shall primarily recruit Des Moines-based professionals and ensure that as many staff as possible directly associated with the provision of Contract services are collocated at the IME’s permanent facility to ensure collaboration with Agency staff. See Attachment 3.2.
    1. **System and Software Requirements**
18. The Contractor shall maintain systems and software, as necessary, to support Contract functions, including the ability to interface with data sources as determined by the Agency.
19. The Contractor shall provide a solution to include but not limited to identifying third party liability, billings, accounts receivable and recoveries, and a provider portal for reporting.
20. The Contractor shall perform system quality assurance and testing in accordance with the Agency-approved systems implementation plan.
21. The Contractor shall meet the Agency and the Office of the Chief Information Officer’s security standards for data collection, storage, and secured electronic transmissions. This includes, but is not limited to, a minimum 256-bit encryption for both authentication and data transmission. See Contract Section 2.9.6.
22. The Contractor shall ensure that the Contractor solutions:
    * 1. Effectively apply all federal and State code, rules, and regulations related to Contract functions;
      2. Accept and maintain accurate current and historical data;
      3. Create sufficient audit trails for all activity as per state and federal regulations regarding data retention; and
      4. Deliver all interfaces timely. Real-time exchange of data shall occur whenever possible to ensure data is consistent and accurate.
23. The Contractor shall manage application security for the Contractor solutions to ensure access is available and appropriate to the role description.
24. The Contractor shall ensure security safeguards are in place to assure the integrity of system hardware, software, records, and files, including but not limited to:
25. Orienting new employees to security policies and procedures;
26. Conducting periodic review sessions on security procedures;
27. Developing lists of personnel to be contacted in the event of a potential or suspected security breach;
28. Maintaining entry logs for limited access areas;
29. Maintaining an inventory of Agency assets, not including any financial assets;
30. Limiting physical access to systems hardware, software, and libraries; and
31. Maintaining confidential and critical materials in limited access, secured areas.
32. If the Contractor’s systems or applications will host Agency data, the Contractor shall provide the following to the Agency:
    * 1. Completed Vendor Security Questionnaire using the template provided in Attachment 3.5;
      2. Documentation of SOC 2 compliance or the following documentation prior to system implementation and annually thereafter:
33. Attestation of passed information security risk assessment;
34. Attestation of passed network penetration scan; and
35. If the Contractor utilizes a web application in performance of services under this Contract, attestation of passed web application security scan.
    * 1. The Contractor shall develop and maintain, subject to Agency approval, a disaster recovery and business continuity plan to address recovery of business functions, business units, business processes, human resources, and the technology infrastructure. The Contractor shall comply with the Agency-approved plan at all times. The Contractor shall protect against hardware and software failures, human error, natural disasters, and other emergencies that could interrupt services and operations.
36. The Contractor shall develop, maintain, and comply at all times with an interface control document (ICD), subject to Agency approval. The Contractor shall develop this document with consultation from Agency data management staff and update as changes occur, but not less frequently than annually. The ICD shall include, but is not limited to:
    1. Description of the data exchange and processing necessary to implement and operate Contractor solutions; and
    2. Interfaces necessary for electronic transmissions of data files, processing rules, and required sequence of data to manage the services.
37. The Contractor shall take all steps necessary to maintain connectivity to Agency digital infrastructure, including updating interfaces as needed.
    1. **Quality Assurance/Quality Improvement**
38. The Contractor shall perform quality assurance reviews on a statistically valid random sample basis of TPL subsystem entries, in accordance with the Agency-approved quality assurance plan.
39. The Contractor shall implement quality improvement procedures that are based on proactive improvements rather than retroactive responses. The Contractor must understand the nature of and participate in quality improvement procedures that may occur in response to critical situations and shall assist in the planning and implementation of quality improvement procedures based on proactive improvement. Duties include but are not limited to:
40. Monitor the quality and accuracy of the Contractor’s own work;
41. Perform continuous workflow analysis to improve performance of Contractor functions and submit quarterly reports of the quality assurance activities, findings and corrective actions (if any) to the Agency electronically. The quality assurance report shall at a minimum show the number of items sampled by category, the number of errors and the percent accurate; and
42. Provide the Agency with a description of any changes to the workflow for approval prior to implementation.
    1. **Performance Reporting and Corrective Actions** 
       1. The Contractor shall submit monthly performance reports using an Agency-approved format, similar to the sample in Attachment 3.4, detailing all deliverables and performance measures that have been met or unmet during the month. This report shall be submitted with the monthly invoice.
       2. The Contractor shall provide written notification to the Agency within two business days of discovery of any problems, concerns, or issues of non-compliance.
       3. The Contractor shall maintain records of such reports and other related communications issued in writing during the course of Contract performance.
       4. The Contract Owner has final authority to approve problem-resolution activities.
       5. The Agency’s acceptance of a problem report shall not relieve the Contractor of any obligation under this Contract or waive any other remedy. The Agency’s inability to identify the extent of a problem or the extent of damages incurred because of a problem shall not act as a waiver of performance or damages under this Contract.
       6. To the extent that Deficiencies are identified in the Contractor’s performance and notwithstanding other remedies available under this Contract, the Agency may require the Contractor to develop and comply with a corrective action plan to resolve the Deficiencies, subject to Agency approval.
    2. **Receipt of Checks and Bank Deposits**
43. The Contractor shall receive checks or money orders related to the work that it performs, such as recoveries and premium payment processing. The Contractor shall meet the following requirements for checks or money orders:
44. Log and prepare all payments for deposit on the day of receipt and conduct daily deposits in the Agency Title XIX recovery bank account.
45. Provide deposit receipt and check log to the Agency Division of Fiscal Management within 24 hours of depositing checks. The log shall include the daily beginning number and amount of checks located in the Agency-owned safe, the number and amount of the daily deposit, and the ending number of checks located in the Agency-owned safe.
46. Submit credits or adjustments to the Core MMIS contractor within ten (10) business days of depositing the check, in those instances in which deposited checks are associated with claims.
47. Complete a request for refund through the process established by the Agency Fiscal Management Division, in those instances in which deposited checks are unable to be credited or adjusted through claims offsets in the Agency’s MMIS system.
48. Assist in the maintenance and updating of the existing check classification code schematic, as necessary.
49. Assist the Agency Division of Fiscal Management in the reconciliation of the monthly Title XIX Recovery bank account, if requested to do so.
50. Revenue Collections is the IME Unit designated to receive checks or money orders from all IME Units. The Contractor shall deposit payments received by IME Units to the Agency Title XIX recovery bank account.
    1. **Insurance Carrier Files and Data Use Agreements**
51. The Contractor shall receive data files from the insurance carriers that will enable the Contractor to match insurance carrier members with Members and applicants of the ***hawk-i*** program. The Contractor shall obtain signed Data Use Agreements (DUAs) with all insurance carriers necessary to complete the Contract scope of work.
52. The Contractor shall maintain a listing of insurance carriers who have an existing DUA with the Contractor, and send a report to the Agency within thirty (30) days of the start of the Contract, on a quarterly basis, and as requested.
    1. **Requests for Information**
53. The Contractor shall respond to Agency requests for information and other requests for assistance within the timeframe that the Agency specifies. The Contractor shall provide information in response to:
54. Freedom of Information Act (FOIA) requests;
55. Requests for Information (RFIs) from Iowa Legislators;
56. Open Records Act requests, as required in Iowa Code Chapter 22;
57. State or federal audits;
58. Payment Error Rate Measurement (PERM) project, as requested; and
59. Miscellaneous requests.
60. The Contractor shall comply with information protocols and response timeframes determined by the Agency Public Information Officer.
    1. **Centralized Email Mailboxes and Telephone Lines.**
       1. The Contractor shall manage assigned Agency centralized email mailboxes and telephone lines for communications necessary to support Contract functions.
       2. The Contractor shall track and log communications within IME systems.
       3. The Contractor shall monitor the quality and accuracy of the Contractor’s communications in accordance with the Agency-approved quality assurance plan.
       4. The Contractor shall submit a report to the Agency on management of communications, to include timeliness and accuracy of responses, on a quarterly and annual basis.
    2. **Branding**
61. The Contractor shall not reference the Contractor's corporate name in any Deliverables associated with this Contract and shall not mark Deliverables as confidential or proprietary, except when legally necessary to do so (i.e., for certain Estate Recovery Services).

**1.3.1.2** **Transition Phase**

1. **Planning.** The Contractor shall develop, maintain, and comply at all times with the following, subject to Agency approval:
2. Project work plans. Work plans include:
3. A transition plan detailing Contractor’s strategy to implement the staff, systems and services contemplated by this Contract;
4. A systems implementation plan detailing implementation, quality assurance, and testing activities related to Contractor’s system solutions;
5. An operations plan detailing the daily performance of all required activities by the Contractor, including required coordination and safeguards;
6. TPL action plan, utilizing the CMS template.
7. A quality assurance plan detailing requirements and timeframes for monitoring the quality and accuracy, as well as continuous workflow analysis, of the Contractor’s functions;
8. A reporting plan detailing requirements for submitting reports to the Agency. This plan shall be developed in consultation with the Agency. Reporting plan requirements include but are not limited to:
9. Use of standard naming conventions;
10. Templates for standardized reports that may be necessary to implement the project. The Contractor shall revise report content as needed and upon Agency request;
11. Use of the Agency-designated sharepoint site to upload reports, with links sent to relevant Agency staff via email;
12. Detail of whom the reports should be delivered to for review and approval, as necessary;
13. Any posting requirements for external stakeholders;
14. Frequency and due dates for reports;
15. An Agency report monitoring tool similar to the sample in Attachment 3.3; and
16. A monthly performance reporting tool similar to the sample in Attachment 3.4.
17. A training plan detailing, at minimum:
    * 1. Training of Contractor staff in all systems functions that they will use. This may include the Medicaid Management Information System (MMIS), OnBase, Data Warehouse/Decision Support system (DW/DS) and other state and external Contractor systems;
      2. Training of Contractor staff in system and operational procedures required to perform the Contractor’s functions under the Contract;
      3. Continuous standard operating procedures training process for Contractor staff. At minimum, the Contractor shall train staff when:
         1. New staff or replacement staff are hired;
         2. New policies or procedures are implemented; and
         3. Changes are made to any existing policies or procedures prior to the change’s implementation if possible, and if not, concurrent with the change’s implementation.
      4. Training of Agency employees and other Agency contractors, as requested. Such training shall be at no additional cost to the Agency.

Each plan shall generally adhere to the approximate timing and requirements set forth in Sections 1.3.1.3 and 1.3.2, to include, at minimum:

1. Definition of each project activity;
2. Sequence of activities;
3. Identification of who is responsible for each project activity;
4. Defined deliverables and outcomes;
5. Timeframe in which each activity will be completed;
6. A plan update schedule, which shall include updates no less frequently than quarterly; and
7. Identification of Agency responsibilities and expectations.
8. Standard operating procedures (SOPs).
9. SOPs shall be maintained in the Agency-prescribed format using standard naming conventions in the documentation.
10. SOPs shall document the processes and procedures used by the Contractor in the performance of its obligations under this Contract, including but not limited to:
    * + - 1. Notification and issue escalation procedures and timelines; and
          2. Policy manuals required for all Core MMIS functions.
11. SOPs shall be updated with any changes to the methods and procedures used by the Contractor in the performance of its duties under this Contract. The Contractor shall document all changes within 30 business days of the change. The Contractor shall use version control to identify the most current documentation and any previous versions, including their effective dates. The Contractor shall provide all documentation in electronic form and store all documentation within the Agency-designated repository.
12. SOPs shall be reviewed with the Agency no less than semi-annually.
13. **Operational Readiness**
14. The Contractor shall prepare for the onset of operations in the existing Agency environment. This includes but is not limited to the following:
15. Review the turnover plan from the current contractor;
16. Utilize the Agency’s comprehensive operational readiness checklist of its start-up activities;
17. Ensure that all checklist activities have been satisfactorily completed and signed-off by the Agency;
18. Develop and implement a corrective action plan for all outstanding activities for review and approval by the Agency;
19. Conduct training for its staff;
20. Gather and document all Agency technical and operational requirements pertaining to work performed under this Contract;
21. Produce and update all operations documentation and obtain Agency approval of each iteration;
22. Establish Agency-approved interfaces, as necessary; and
23. Obtain written approval from the Agency to start operations.
24. The Contractor shall work proactively with the Agency and the outgoing contractor to take over the management of any work that remains open when the outgoing contract ends on June 30, 2018, including but not limited to, TPL verifications and updates, pay and chase activities, lien recovery, yield management, provider overpayments, and Estate Recovery and Trust cases identified in Contract Sections 1.3.1.3 through 1.3.1.5.

**1.3.1.3** **Revenue Collections** **Operations**

1. **Third Party Liability (TPL) Identification and Verification**

The Contractor’s obligations under this Section are applicable to the entire Medicaid population. Beginning July 1, 2019, this Section shall also apply to ***hawk-i*** Members.

1. Identification of TPL.
   1. The Contractor shall identify all liable third-party resources for Medicaid Members.
   2. The Contractor shall process all local leads received at the Agency for all Medicaid Members. A local lead includes but is not limited to mail, phone calls, insurance information from Medicaid applications and ongoing Income Maintenance work, PARIS matches, data exchanges for the Social Security Administrations, and the Child Support Recovery Unit.
   3. The Contractor shall perform data matches with other governmental and private insurers as required to identify TPL resources.
   4. The Contractor shall assist the Agency in defining its TPL responsibilities and make recommendations to change the content of the TPL action plan to the Agency.
2. Verification of TPL.
3. The Contractor shall verify insurance coverage for all Medicaid Members based upon claims information, Insurance Questionnaire (IQ) forms, or any other forms of TPL notification submitted by Agency income maintenance workers, providers, staff of the Member Services unit, or any other entity providing TPL updates.
4. The Contractor shall verify 100% of TPL before updating the insurance on Member file in the Agency TPL subsystem.
5. The Contractor shall maintain applicable data use agreements with governmental and private insurance companies to verify coverage.
6. Update and Maintain Agency TPL Subsystem.
   1. The Contractor shall update and maintain the Agency third-party carrier code list. This includes carrier ID and name, address, city, state and zip code, phone number and name of contract person.
   2. The Contractor shall communicate with and respond to MCO data requests regarding the carrier code list.
   3. The Contractor shall maintain third-party resources as outlined in the TPL action plan by Member State Identification Number (SID) on the TPL subsystem of the Agency-approved system that must, at a minimum, include:
      1. First and last names of policyholder;
      2. Social security number (SSN) of policyholder;
      3. Full insurance company name;
      4. Group number, if available;
      5. Name and address of policyholder’s employer, if known;
      6. Insurance carrier ID;
      7. Type of policy and coverage, including identification of covered types of services under the policy;
      8. Effective date of coverage, if new; and
      9. Termination date of coverage, if ended.
   4. The Contractor shall maintain the integrity of the Agency-approved MMIS TPL subsystem by working Agency ad hoc TPL gap reports within 10 business days. The analysis shall include but not be limited to:
      1. When a Member is approved for Medicaid and there is an active insurance in the TPL subsystem that hasn't been verified in over a year (12 months).
      2. When medical insurance is coded in the system, but lacks the prescription coverage or vice versa.
      3. When Noncustodial Parent insurance has been identified in the past:
         1. If the Member is coded as an adult and the absent parent policy is still active, term the AP policy and convert it to a TPL in order to cost avoid instead of pay and chase.
         2. If the Member is coded as a child and turns 19, if the policy is still active, switch the AP policy to a regular policy in order to cost avoid instead of pay and chase.
7. Quality Assurance (QA) TPL data in Agency TPL Subsystem.
   1. The Contractor shall utilize an Agency-approved methodology for monthly quality assurance samples verifying the accuracy of TPL updates applied during the previous month.
   2. The Contractor shall develop a corrective action plan for identified errors through the QA process.
   3. The Contractor shall correct any errors identified through the QA process within twenty-four (24) hours of identification.
   4. The Contractor shall research, analyze and make any necessary corrections to all error reports generated from the MMIS as directed by the Agency.
8. Reports.
   1. The Contractor shall produce reports to meet federal and state requirements, including but not limited to:
      1. Monthly report summarizing amounts billed and collected, current and year-to-date.
      2. Quarterly report summarizing recoveries and unrecoverable amounts by carrier, type of coverage, and reason.
   2. The Contractor shall submit quarterly TPL activity reports to the Agency.
   3. The Contractor shall produce internal reports used to investigate possible third-party liability when a paid claim contains a TPL amount and no resource information is on file.
   4. The Contractor shall produce monthly pay-and-chase carrier bills.
9. **Third Party Liability Recoveries**

The Contractor’s obligations under this Section are applicable to Fee-for-Service claims, and TRICARE claims for the entire Medicaid population, or as directed by the Agency.

1. Cost Avoidance.
   1. The Contractor shall ensure all claims for Members with TPL are billed to the liable third party before Medicaid is billed, except for EPSDT, prenatal care and court ordered child support recovery (IV-D) enforceable claims.
   2. The Contractor shall provide the Agency with best practice policy and industry standard practices related to TPL cost avoidance.
2. Pay and Chase.
   1. The Contractor shall perform all recovery activities for pay-and-chase claims, which includes submission of claims to third-party insurers, recovery tracking, receipt of recovery payments, and production of reports on recovery activities.
   2. The Contractor shall identify paid claims for TPL tracking and potential recovery, including all federally mandated pay-and-chase services.
   3. The Contractor shall track and recover paid claims denied by insurance carriers. Identify and record reasons for denial of post-payment billed claims by TPL carrier.
   4. The Contractor shall identify paid claims for up to three years prior and bill insurance carrier for these claims, when retroactive TPL resources are found.
   5. The Contractor shall identify type and amount of recovery, utilizing the paid claims file.
   6. The Contractor shall meet all minimum TPL processing requirements defined in Chapter 3, Section 3900 of the CMS State Medicaid Manual.
   7. The Contractor shall track and adjudicate all post-payment requests for reimbursement to a final payment or denial and identify denial by type and reason.
   8. The Contractor shall initiate follow-up activities on denied post-payment billings as agreed with the Agency within five business days of receipt of the denial notice.
   9. The Contractor shall ensure that TPL recoveries do not exceed the Medicaid paid amount and will reconcile any over recoveries through Agency-approved reimbursement practices.
   10. The Contractor shall coordinate with the Agency and other insurers to develop and maintain pay and chase processes including but not limited to disallowance.
   11. The Contractor shall provide the Agency with best practice policy and industry standard practices related to TPL pay and chase.
3. Lien Recovery/Subrogation.
   1. The Contractor shall identify trauma, accident and medical malpractice cases where funds expended by Medicaid can be recovered from liable third parties.
   2. The Contractor shall coordinate lien recovery efforts with liable third parties and Attorneys of Members.
   3. The Contractor shall recover funds from liable third parties for trauma, accident and medical malpractice cases.
   4. The Contractor shall review claims with trauma indicators to identify potential cases for subrogation; prepare records of the medical services provided to the Member based on the medical assistance claims.
   5. The Contractor shall identify potential cases for subrogation and prepare reports of the amount of medical services provided to the Member based on the medical assistance claims data.
   6. The Contractor shall notify Members with possible trauma related injuries as identified through ICD-10 codes on billed claims and request TPL information from the Member using the Agency approved questionnaire.
   7. The Contractor shall send a follow-up request to Members that have not submitted the trauma related injury questionnaire within forty-five (45) business days of the initial request. The Contractor shall send a notification of non-cooperation with TPL to the Agency for any Member over the age of 21 that does not provide a response to the trauma related questionnaire within ten (10) business days of the due date.
   8. The Contractor shall notify the Agency within twenty-four (24) hours for Members that comply with the request after the notification of non-cooperation with TPL has been sent to the Agency.
   9. The Contractor shall provide case data to the state Attorney General’s office for subrogation cases that are appealed.
   10. The Contractor shall maintain a process or utilize a tool to select individual claims online to build recovery cases (such as tort cases related to auto accidents).
   11. The Contractor shall provide to the Agency reports to meet federal and state requirements to include but not limited to:
       1. Listings of potential recovery claims based on user input section parameters (subrogation);
       2. Amounts billed and collected, current, and year-to-date (monthly); and
       3. Potential trauma, accident, or medical malpractice claims (monthly).
   12. The Contractor shall log and prepare all recoveries to be deposited in the Agency Title XIX recovery bank account.
   13. The Contractor shall track all subrogation cases from initial intake to final disposition and provide a monthly report of these cases to the Agency. The report shall include but not limited to the following items:
       1. Number of cases opened;
       2. Number of cases closed; and
       3. Money recovered.
   14. The Contractor shall provide monthly reports to the Agency of subrogation recovery activity with state fiscal year-to-date data and updated for the previous month’s activity.
   15. The Contractor shall provide subject matter expertise in order to track and trend Agency claims data for regular, ongoing TPL-related national settlements and mass torts. The Contractor shall report findings quarterly or as requested by the Agency.
   16. The Contractor shall represent the Agency in identifying and pursing the results of class-action lawsuits where the Agency may be able to recover funds.
4. Yield Management.
   1. The Contractor shall utilize a yield management process by which a denied or under-processed claim with third-party insurance is reviewed for accuracy.
   2. The Contractor shall request additional information and challenge the denial or lack of payment when it appears the claim should have been paid by the third-party insurance carrier.
   3. The Contractor shall obtain all necessary Explanation of Benefits (EOBs) from the appropriate source and enter into the Agency-approved system.
   4. The Contractor shall submit monthly reports of yield management collections to the Agency, to include but not limited to the total state fiscal year-to-date amount of Medicaid funds recovered and breakouts, as directed by the Agency.
   5. The Contractor shall provide an annual report with summary information for the previous state fiscal year to the Agency, to include but not limited to a compilation of the information from the monthly reports.
5. **Premium Payment Processing**
6. Premium Payment Processing. The Contractor’s obligations under this Section are applicable to MEPD, IHAWP, and Dental Wellness Members. Beginning July 1, 2019, this Section shall also apply to ***hawk-i*** Members.
   1. The Contractor shall post all unprocessed batch payments received from MEPD, IHAWP, and Dental Wellness lockboxes to the systems designed to record their respective premium information. The Agency has established an automated bar coding system that electronically captures the required information. Most premium payment transactions are received from the bank electronically. For those that are not, the posting function will be a manual process.
   2. The Contractor shall request assistance from MEPD, IHAWP, or Dental Wellness program manager for any payment for which the respective account cannot be determined.
   3. The Contractor shall follow program-specific Agency-approved written procedures for handling items returned by a financial institution because of non-payment.
   4. The Contractor shall send any client correspondence sent to lockboxes to the respective program manager for processing.
   5. The Contractor shall assist the Agency with researching and viewing online lockbox transmittal information as needed.
   6. For contribution/premium payment checks that are received manually, the Contractor shall post the checks to the system designed to record respective premium information within one (1) business day of receipt from the bank.
   7. The Contract shall provide a summary report of premium payment processing to the Agency upon request.
7. **Provider Overpayments (Credit Balance)**

The Contractor’s obligations under this Section are applicable to Fee-for-Service claims only.

1. The Contractor shall identify provider overpayments that have created a credit balance in the Agency MMIS system from active and inactive providers.
2. The Contractor shall notify providers of balances due to the Agency that have not been completely recovered through the claims processing system if there has not been sufficient activity as defined by the Agency for thirty (30) calendar days.
3. The Contractor shall send initial provider notification letter within ten (10) business days of the provider being reported as being in a credit balance and having insufficient activity for thirty (30) calendar days.
4. The Contractor shall request the additional information within five (5) business days of determination of the need for additional information for action to be taken on the credit or adjustment related to a provider refund.
5. For refunds requiring additional information from the provider, the Contractor shall enter claim credits or adjustments within five (5) business days of receipt of additional information from the provider.
6. The Contractor shall refer any providers with an identified overpayment who have filed for Chapter 7 or Chapter 11 bankruptcies to the Iowa Attorney General’s Office.
7. The Contractor shall refer to the Estate Recovery program any deceased providers with a provider overpayment.
8. The Contractor shall prepare and submit the adjustment forms to transfer the overpayment amount to the actively enrolled provider, when a provider is in a credit balance and their federal tax identification number matches that of an actively enrolled provider.
9. The Contractor shall prepare and process credits or adjustments against recoveries received within ten (10) business days of receipt of the recoveries.
10. The Contractor shall record payments received in the Agency's accounts receivable system for generally accepted accounting principle (GAAP) reporting and bank account reconciliation purposes.
11. The Contractor shall refer the provider overpayment account to the Agency within ten (10) business days, when a Provider with an overpayment fails to pay in full, sign a payment agreement, and/or has exhausted appeal rights.
12. The Contractor shall prepare and submit the adjustment forms to write off the provider overpayment as bad debt, when the amount of the credit balance is below a threshold, as determined by the Agency.
13. The Contractor shall submit a monthly report to the Agency of provider overpayment collection activity and overpayments referred to the Agency from the previous month.
14. **Provider Withholds**

The Contractor’s obligations under this Section are applicable to Fee-for-Service claims, and TRICARE claims for the entire Medicaid population, or as directed by the Agency.

1. The Contractor shall receive requests from the Agency Child Support Recovery Unit, the Internal Revenue Service, and other state or federal entities, to withhold provider payments.
2. The Contractor shall submit provider withhold data to the Core MMIS contractor.
3. The Contractor shall receive and act on withholds against providers to be recovered from Medicaid payments.
4. The Contractor shall recover withholds from claims submitted for payment and forward the recovered funds to the requesting entity.
5. The Contractor shall maintain electronic and/or paper transmittal documentation related to received data requests.
6. The Contractor shall process all requests for withholds and claim offsets within one (1) business day of receipt.
7. The Contractor shall identify the provider number of the entity for which a claim offset is required.
8. The Contractor shall enter withhold and assignment information to be used in directing or splitting payments to the provider and the entity requesting the withhold.
9. The Contractor shall monitor the recovery of the claim offset amounts and verify processing of offsets against the claims file.
10. The Contractor shall ensure that the monetary amounts of each claim offset do not exceed the state or federal regulations governing monetary garnishments.
11. The Contractor shall submit a monthly report to the Agency of withholds and claims offsets processed the previous month.

**1.3.1.4** **Insurance Data Match for the for the *hawk-i* Program**

1. **Daily Application Data Match and Verification**
2. The Contractor shall receive a daily file, in an Agency-approved format, from the Agency of all new ***hawk-i*** applicants received at the Agency on the prior business day. The file includes, but may not be limited to:
   * + - 1. Name of the head of household, including social security number and date of birth if available;
         2. Name of other parents or guardians in the household, including social security numbers if available;
         3. Name of the child applicant;
         4. Date of birth of the child applicant;
         5. Social security number of the child applicant;
         6. Address of the household; and
         7. State Identification Number (SID).
3. The Contractor shall use the daily file from the Agency to perform a data match with the insurance carrier member file within one (1) business day of receipt of the file.
4. The Contractor, upon finding a match with a ***hawk-i*** applicant and an insurance carrier member, shall conduct policy verification with the insurance carrier within one (1) business day of performing the data match.
5. The Contractor shall deliver a monthly report, in an Agency-approved format, to the Agency, that includes but is not limited to:
6. Identity of every child for whom a match occurred from the daily files of the previous month; and
7. The outcome of the policy verification activity for all cases identified in the report.
8. **Quarterly Member Data Match and Verification.** Beginning July 1, 2019, this work shall cease.
9. The Contractor shall receive a quarterly file, in an Agency-approved format, from the Agency that includes all current ***hawk-i*** Members. This file shall be delivered to the Contractor on the first business day of the month following the end of the state fiscal quarter of each Contract year.
10. The Contractor shall use the quarterly file from the Agency to perform a data match with the insurance carrier member file within five (5) business days of receipt of the file.
11. The Contractor, upon finding a match with a ***hawk-i*** Member and an insurance carrier member, shall conduct policy verification with the insurance carrier within five (5) business days of performing the data match.
12. The Contractor shall deliver a quarterly report, in an Agency-approved format, to the Agency, that includes but is not limited to:
13. Identity of every child for whom a match occurred from the quarterly file; and
14. The outcome of the policy verification activity for all cases identified in the report.
15. **Response File to the Agency**
16. The Contractor shall produce a response file, in an Agency-approved format, to the Agency and/or the Agency’s designee, of policy verifications listing ***hawk-i*** applicants and Members within one (1) business day from the day the verification is completed. Beginning July 1, 2019, work related to quarterly data matches shall cease. The file shall include, but may not be limited to, the following:
17. Name of applicant as provided in the file from the Agency;
18. Date of birth of the applicant as provided in the file from the Agency;
19. The SID as provided in the file from the Agency;
20. Social security number of the applicant as provided in the file from the Agency;
21. Policyholder name;
22. Insurance carrier name and telephone number;
23. Coverage type (only major medical/healthcare policies should be included);
24. Coverage start and termination dates;
25. Group number (if available from the insurance carrier); and
26. Policy number.
27. **Data.**
28. The Contractor shall transmit data to all parties through a secure environment. The Contractor and Agency shall mutually agree upon the secure environment to be used.
29. The Contractor shall maintain interfaces with the Agency eligibility system to receive eligibility information on ***hawk-i*** applicants and Members.
30. The Contractor shall provide a data feed including all verified data matches to the Agency’s MMIS system in an Agency-approved format. This data feed shall be provided daily for daily application matches and quarterly for on-going matches. Beginning July 1, 2019, work related to quarterly data matches shall cease.
31. The Contractor shall ensure that the data collected from any insurance carrier and ***hawk-i*** applicant and enrollee files shall only be used to fulfill the service requirements of this Contract, unless the data use agreement signed by the insurance carrier permits otherwise. Any other use of the data is prohibited without the written consent of the Agency.
32. The Contractor shall store the data obtained from the insurance carriers and the Agency in a secured environment for ninety (90) days after the matches are performed.
33. The Contractor shall discard data files after ninety (90) days and all files from the insurance carriers and Agency shall be permanently destroyed. Note that the insurance carrier data may be retained for a longer period as outlined in the data use agreement between the insurance carrier and the Contractor.

**1.3.1.5** **Estate Recovery and Trust Operations**

1. **Estate Recovery**
2. The Contractor shall recover Medicaid expenditures from assets of eligible deceased Members.
3. The Contractor shall identify assets of the deceased Member that are available for estate recovery.
4. The Contractor shall take all necessary steps to collect from identified assets and interest when applicable.
5. The Contractor shall maintain the Iowa Department of Public Health (IDPH) interface, for official death records to match against the eligibility file. The format of this file will be established by the IDPH.
6. The Contractor shall comply with all requirements to pursue recoveries from estates of deceased Medicaid Members, as required in Iowa Code § 249A.5.
7. The Contractor shall receive names of deceased Medicaid Members from the IDPH Vital Statistics data or from other available sources.
8. The Contractor shall advise the Iowa Attorney General’s (AG’s) Office in writing of any case in which a person refuses to cooperate with the Contractor’s recovery process or any case requiring court proceedings.
9. This notice must describe the issues involved and must be provided to the AG’s office within seven business days of the refusal to cooperate or discovery that a court proceeding is required.
10. Pursuant to Iowa Code § 13.7, the AG’s office has exercised its discretion to have the Contractor’s attorney appear and represent the Agency in all probate and/or district court proceedings related to the estate recovery program.
11. The AG’s office, however, will retain the discretion to determine pursuant to Iowa Code § 13.7 whether the AG’s office will represent the Agency in any given probate or district court proceeding related to the estate recovery program.
12. The Contractor shall coordinate all representation in probate and/or district court proceedings with the AG’s office. The AG will represent the Agency in any matters appealed to the Iowa Supreme Court or Court of Appeals.
13. The Contractor shall provide copies of relevant paperwork regarding court proceedings to the AG’s office upon request. The Contractor shall also provide copies of relevant paperwork regarding court proceedings when the Contractor’s attorney deems it necessary to provide such paperwork.
14. The Contractor shall cooperate with and provide information and assistance to the AG’s office as necessary.
15. The Contractor shall staff a dedicated toll-free telephone number to provide information regarding estate recoveries. At a minimum, the telephone number must be staffed Monday through Friday from 8:00 a.m. to 4:30 p.m., Central Standard Time (CST), excluding state holidays.
16. The Contractor shall submit history credits or adjustments to the Core MMIS contractor, utilizing the format designated by the Core MMIS contractor, within 10 business days of receipt of payments related to estate recoveries. Apply credits or adjustments to the oldest claims, in terms of dates the services were provided, first.
17. The Contractor shall provide sufficient staff to answer questions from attorneys, deceased Member's authorized representatives, the Agency's staff, and public concerning recoveries.
18. The Contractor shall log and prepare all payments to be deposited in the Agency Title XIX recovery bank account.
19. The Contractor shall submit request for refund payments received in error to the Agency’s Division of Fiscal Management within 10 business days of receiving the request for refund or discovering the error. The Contractor shall return to the Agency any fee paid to the Contractor for the erroneous recovery.
20. The Contractor shall identify deceased Members through information obtained from various sources including eligibility files from the Agency, files of reported deaths from the Iowa Department of Public Health, information from attorneys and any other sources, or as otherwise directed by the Agency.
21. The Contractor shall identify medical assistance subject to recovery from the estate of a deceased Member, a surviving spouse, or a surviving child in accordance with Iowa Code § 249A.5(2)(d).
22. The Contractor shall file an estate recovery claim in probate court on behalf of the Agency for deceased Members whose estates have been opened.
23. When an estate subject to recovery is opened in probate, and a notice of probate has been received, the Contractor shall notify the representative of the deceased within 10 business days.
24. The Contractor shall determine the value of the estate subject to recovery, the expenses of the estate, and the priority of the expenses by requesting information on the deceased Member's assets and the expenses from the deceased Member's authorized representative.
25. The Contractor shall determine the amount of Medicaid paid on behalf of the deceased Member subject to recovery by obtaining the deceased Member’s history of paid claims, including capitation payments on the behalf of the deceased Member. The Contractor must obtain a history of paid claims for any deceased person referred by any source. The following Medicaid payments are subject to recovery:
26. For a Medicaid eligible person under age 55, when the person was living in a nursing facility (NF), an Intermediate Care Facility for individuals with Intellectual disability (ICF/ID), or a mental health institute, and wasn’t reasonably expected to be discharged and return home for six consecutive months or longer, or dies before staying six consecutive months.
27. If the Agency QIO Unit has determined that a deceased Member under age 55 could return home in six months even though the deceased Member stayed in the NF or ICF/ID longer than six months, or the deceased Member died before returning home. If a deceased Member's authorized representative alleges that there is such a determination, the Contractor must verify this information and request documentation of the decision. The Contractor must document in the deceased Member’s file the reason recovery was not made.
28. If the deceased Member is under age 55 and receiving HCBS waiver services. If the person receiving HCBS Waiver services subsequently enters a NF or ICF/ID, as indicated by the eligibility files, the Medicaid paid for a partial month in the NF or ICF/ID is subject to recovery.
29. The eligibility file has aid types and waiver codes that identify people in a NF, ICF/ID, or HCBS waiver.
30. The Contractor shall notify the authorized representative of the deceased Member to pay the lessor of the amount of the estate subject to recovery or the amount of Medicaid payments. The Contractor will add interest accrued to the Medicaid debt in accordance with Iowa Code § 535.3.
31. The Contractor shall have the ability to receive vital statistics data from the IDPH as formatted.
32. The Contractor shall educate the public, disseminate information and answer inquiries about the estate recovery program. This responsibility includes:
33. Participating in seminars, and meetings with the bar association, social services agencies, the Agency employees, deceased Members’ authorized representatives, Members of the public, and other organizations as requested.
34. Preparing and distributing material describing the estate recovery program. The Agency must approve all written material prior to distribution.
35. Maintain a publically accessible website, in accordance with federal regulation on accessibility. The Agency must approve the format and contents. The Contractor shall provide a link to the Agency website.
36. The Contractor shall notify the deceased Member's authorized representative of the right to claim undue hardship and a waiver to recovery at the same time the Contractor notifies the deceased Member's authorized representative of the debt due the Agency. The Contractor shall also inform the deceased Member's authorized representative of the 30-day time limit to request a hardship waiver.
37. The Contractor shall process undue hardship claims as follows:
38. Upon receipt of an undue hardship request, the Contractor shall determine if the request is timely or if there is a reason to grant extension beyond the 30-day period.
39. If the request is not made within the 30-day period and an extension is not granted, the Contractor shall notify in writing the person claiming a hardship and requesting a waiver, that the request is denied as untimely. The notice must give the legal basis for denial 441 IAC 78.28(7)g.(2) and inform the person of the right and the timeframe to file an appeal in writing with the Agency.
40. If the hardship request is timely, the Contractor shall obtain income and resource information to support the request for a recovery waiver. The Contractor shall outline the undue hardship process and inform the person making the request of the process.
41. If the income and asset information is not received within 90 days, the Contractor will follow up with the requestor. If the information has not been supplied, the Contractor shall deny the hardship claim with a written notice informing the requestor of the right and timeframe to file an appeal.
42. The Contractor shall obtain the Agency approval for all notice formats required by this section.
43. The Contractor shall request of the person requesting a hardship waiver a description of the circumstances whereby the disapproval of hardship would result in deprivation of food, clothing, shelter, or medical care such that life or health would be endangered.
44. The Contractor shall then determine if recovery would result in deprivation of food, clothing, shelter, or medical care such that life or health would be endangered and present the waiver request to the Agency for review. The Agency will determine if the hardship waiver of recovery will be granted.
45. The Contractor shall track all requests for a waiver and their disposition.
46. The Contractor shall represent the Agency in appeal hearings where a hardship waiver is not granted.
47. The Contractor shall maintain and update monthly estate recovery information, including but not limited to the following:
48. Deceased Member’s SID (sort field in ascending order);
49. Name of deceased Member;
50. Amount of recovery so the recovery can be matched to the Contractor’s deposits;
51. Total amount recovered in the preceding months, and year to date;
52. Interest earned in the preceding months;
53. Total number of cases in which a letter was sent requesting recovery from an estate;
54. Total number of cases pending each month;
55. Total number of cases processed with a recovery;
56. Total number of cases processed without a recovery and the reason recovery did not occur; and
57. Total number of cases deferred due to a surviving spouse, disabled child or minor child.
58. The Contractor must include the following in the monthly report when the Contractor returns money to a deceased Member's beneficiary or creditor:
59. Documentation as to the reason for the return of funds, including the deceased Member name, SID, and amount returned.
60. Name of the deceased Member's beneficiary or creditor to whom the funds were returned.
61. The Contractor shall provide an annual report to the Agency, to include but not limited to the following information:
62. A summary of the year’s activities;
63. Total dollars collected;
64. Number of cases pending;
65. Dollar value of the cases pending;
66. Any case referred to the AG’s office;
67. Total Medicaid expenditures paid out on behalf of the Members for whom recovery is requested;
68. Percentage of the amount recovered from Estate Recovery compared to the total amount of Medicaid paid for the Member;
69. Total number of cases referred to the AG’s office;
70. The total dollar amount of estates where recovery did not occur;
71. Average number of months to settle a case from initial identification to collection;
72. Total number of undue hardship requests;
73. Total number of undue hardship requests granted and denied; and
74. Total number of cases deferred due to undue hardship.
75. **Trust Monitoring**
76. The Contractor shall develop and maintain a searchable case tracking system for all medical assistance income trusts and special needs trusts for which the State is a residuary beneficiary. The case tracking system or database shall include all pertinent information concerning the trust and documentation regarding any correspondence, expenditure report reviews, or other activity related to the trust.
77. The Contractor shall inform trustees of their obligations to the State of Iowa as a residuary beneficiary of the trust.
78. The Contractor shall conduct outreach activities to educate trustees and members of the bar association on obligations owed to the State arising from special needs and medical assistance income trusts.
79. The Contractor shall respond to written, email, and phone correspondence regarding trust-related issues.
80. The Contractor shall validate individuals on new and existing Medicaid cases who have established a medical assistance income trust or special needs trust for which the State is a residuary beneficiary and establish a file in the case tracking system.
81. The Contractor shall review trust documents referred by eligibility staff for Medicaid eligibility purposes and advise the Agency in an Agency-approved format on whether the trust language meets requirements for exemption from the general rules regarding self-settled trusts.
82. The Contractor shall establish a review schedule for each trust in the case tracking system to ensure that trust income and expenditures from the trust are reviewed annually.
83. The Contractor shall review all trusts upon request and provide a written summary to Medicaid eligibility staff on how the trust affects the applicant or Member's eligibility as soon as possible and no more than fourteen (14) calendar days of receipt of the referral.
84. The Contractor shall track activity of the trusts to identify trust terminations for which recovery activity should be initiated.
85. The Contractor shall request in writing, and review requests, for expenditures from medical assistance income trusts and special needs trusts, resolve disputes with trustees or beneficiaries over expenditures, identify any Agency objections to requested trust expenditures, and file any necessary court documents regarding approval of requested expenditures.
86. The Contractor shall refer cases to the Iowa Attorney General's Office in situations when:
87. The trustee or representative has spent trust funds inappropriately and/or violated obligations to the trust residuary beneficiary, and attempts to resolve such concerns with the trustee or representative are unsuccessful;
88. A trustee or beneficiary has requested court approval of an expenditure to which the Agency does not consent; or
89. The trustee or representative does not respond to inquiries regarding expenditures from the trust, including providing annual expenditure reports or otherwise cooperate with recovery efforts.
90. The Contractor shall draft all necessary guidance documents regarding trust related obligations, including but not limited to, informational letters, training materials, forms, a communication plan, proposed administrative rules, employee manual entries, and Internet materials for Agency approval.
91. The Contractor shall establish an annual review schedule for each trust case at the time the case is entered into the tracking system.
92. The Contractor shall submit a monthly report which includes identifying information for all trust cases disposed of during the month, the resolution of each trust case (e.g. closed with collection, closed without collection, referred to the Attorney General's office, etc.), the total amount owed to the State for those cases and the amount that was collected.
93. The Contractor shall submit a quarterly report which includes identifying information for all trust cases disposed of during the quarter, the resolution of each trust case (e.g. closed with collection, closed without collection, referred to the Attorney General's Office, etc.), the total amount owed to the State for those cases and the amount that was collected. The quarterly report shall also include the total number of all open trust cases, the year-to-date number of closed cases, the total amount of Medicaid expenditures for those cases and the total amount collected for those cases.
94. The Contractor shall conduct outreach activities as directed by the Agency to educate trustees and members of the bar association on obligations owed to the State arising from special needs and medical assistance income trusts and provide a summary of outreach activities on a quarterly basis.
95. Reports.
    1. The Contractor shall provide monthly reports of ongoing cases and collections to the Agency.
    2. The Contractor shall provide a quarterly report with the summary information for the most recent quarter to the Agency.
    3. The Contractor shall provide an annual report with summary information for the previous state fiscal year to the Agency. The report shall be a compilation of the information from the quarterly reports.
96. **Trust Recovery**
97. The Contractor shall:
98. Identify individuals on Medicaid that have established a medical assistance income trust or special needs trust.
99. Ensure tracking of these individuals for termination of the trust.
100. Determine the amount of Medicaid paid on behalf of these Members and notify trustees of the amount due the Agency
101. Collect up to the amounts in the trust upon death of the individual or when the trust is terminated.
102. The Contractor shall maintain information from trusts and similar sources into a case tracking system or database.
103. The Contractor shall record the names of individuals who have terminated a medical assistance income trust or special needs trust that is subject to recovery.
104. The Contractor shall determine the amount of Medicaid paid on behalf of the Member subject to recovery by obtaining the Member’s history of paid claims from the Agency-approved system and the Medicare buy-in file.
105. The Contractor shall determine the amount in the trust after final deposits are made, and trustees fees, and medical expenses are paid.
106. The Contractor shall notify the trustee/representative in writing of the amount due the Agency, which is the lesser of the balance in the terminated trust, up to the amount of medical assistance paid.
107. The Contractor shall notify the representative and refer any cases to the Attorney General's office where the trustee or representative does not respond to recovery efforts.
108. The Contractor shall log and prepare all trust recoveries to be deposited in the Agency Title XIX recovery bank account.
109. The Contractor shall attend meetings with the Agency staff to discuss policy changes or issues.
110. The Contractor shall provide technical assistance to the Agency, if requested, including but not limited to attendance at public meetings, any organization's meeting, or seminars.
111. The Contractor shall provide timely and accurate assistance to trustees with questions.
112. Reports.
     1. The Contractor shall provide monthly reports of ongoing cases and collections to the Agency.
     2. The Contractor shall submit an annual report which includes identifying information for all trusts acted on during the state fiscal year, the resolution of each trust case (such as closed with a collection, closed without a collection, still open), the money amount owed to Medicaid and the money amount (if any) that was collected.

# 1.3.1.6 Turnover Phase

Within this final phase of the Contract, the Contractor turns over operations to a new contractor near the end of the Contract term. This phase is activated when the Agency enters into a contract with a new entity (such as a newly awarded contractor) and begins the process of transferring responsibility for operations to that entity.

Once the turnover phase begins, the Contractor shall:

1. Fully cooperate with the Agency and new entity.
2. Develop and comply with a turnover plan detailing the activities necessary to transfer responsibility for operations to the new entity.

# 1.3.2 Performance Measures

1. General Requirements
   1. The Contractor shall respond to email or telephone inquiries from Members, authorized representatives, or providers within two business days of receipt.
   2. The Contractor shall deposit checks or money orders received at the Iowa Medicaid Enterprise (IME) facility within one (1) business day of their preparation for deposit.
   3. The Contractor shall deliver the initial insurance carrier report to the Agency within thirty (30) days of the start of the Contract.
2. Transition
   1. The Contractor shall submit transition, system implementation, and operations planss to the Agency for approval within 15 business days after execution of this Contract, unless specified otherwise. The Contractor shall receive final approval no later than 10 business days after first submission.
   2. The Contractor shall submit the remaining plans to the Agency for approval within 20 business days after execution of this Contract. The Contractor shall receive final approval no later than 10 business days after first submission.
   3. The Contractor shall submit SOPs to the Agency for approval within 25 business days after the execution of this Contract. The Contractor shall receive final approval no later than 10 business days after first submission.
3. Third Party Liability (TPL) Identification and Verification
   1. The Contractor shall complete the verification or validation of TPL and update MMIS with the data within forty-five (45) business days of receiving the Medicaid or ***hawk-i*** Member TPL leads.

The Contractor shall ensure 100 percent accuracy of TPL data in MMIS files based on the monthly quality assurance audit of the sample data.

1. Third Party Liability Recoveries
   1. The Contractor shall post TPL recovery amounts and denial information within two business days of receipt of the recovery data to track benefit recoveries.
   2. The Contractor shall initiate follow-up activities on unpaid post-payment carrier billings within 30 days.
   3. The Contractor shall provide monthly reports of lien recovery activity by the tenth business day of the month with state fiscal year-to-date data and updated for the previous month’s activity.
   4. The Contractor shall prepare and process credits or adjustments against recoveries received within 20 business days.
2. Premium Processing
   1. For premium payment checks that are received manually, the Contractor shall post the checks to the system(s) designed to record MEPD, IHAWP, ***hawk-i***, or Dental Wellness premium information within one (1) business day of receipt.
3. Provider Overpayments (Credit Balance)
   1. The Contractor shall log, prepare, and deposit all provider refund checks in the Agency Title XIX recovery bank account within one business day of receipt.
   2. The Contractor shall prepare and process credits or adjustments against refunds within ten (10) business days of receipt of the refund unless additional information is required to determine the action to be taken.
   3. The Contractor shall request the additional information within five (5) business days of determination of the need for additional information for action to be taken on the credit or adjustment related to a provider refund.
   4. For refunds requiring additional information from the provider, the Contractor shall enter claim credits or adjustments within five (5) business days of receipt of additional information from the provider.
4. Provider Withholds
   1. The Contractor shall process all requests for withholds and claims offsets within one (1) business day of receipt of request.
   2. The Contractor shall validate the processing of claims offsets within one (1) business day after each adjudication cycle.
5. Insurance Data Match for the ***hawk-i*** Program
   1. The Contractor shall conduct a data match on daily files within one business day of receipt of file.
   2. The Contractor shall conduct a data match on quarterly files within five (5) business days of receipt of file.
   3. The Contractor shall conduct policy verification with the insurance carrier within one business day of performing the daily data match.
   4. The Contractor shall conduct policy verification with the insurance carrier within five (5) business days of performing the quarterly data match.
   5. The Contractor shall submit the response file to the Agency within one business day of the day of verification completion.
6. Estate Recovery
   1. The Contractor shall notify the authorized representative of the deceased Member within ten (10) business days when an estate subject to recovery is opened in probate, and a Notice of Probate has been received.
   2. When an estate subject to recovery is opened in probate, and a notice of probate has been received, the Contractor shall notify the representative of the deceased within ten (10) business days.
   3. The Contractor shall notify the representative of the deceased that there is an amount due the Agency as a result of estate recovery within 30 days of receiving the report of death.
7. Trust Monitoring
   1. The Contractor shall log all Trusts referred by Medicaid eligibility staff into the case tracking system within one (1) business day of receipt.
   2. The Contractor shall review all trusts upon request and provide a written summary on how the trust affects the applicant or Member's eligibility as soon as possible and no more than fourteen (14) calendar days of receipt of the referral.
   3. The Contractor shall provide all newly identified trustees with educational material within fifteen (15) calendar days of identifying the trust.
   4. The Contractor shall respond to written correspondence regarding trust-related issues within ten (10) business days.
   5. The Contractor shall respond to phone calls and email messages regarding trust-related issues within two (2) business days.
   6. The Contractor shall request annual expenditure reports from the trustee, in writing, no later than thirty (30) calendar days from the month of the review.
   7. The Contractor shall complete reviews of annual expenditure reports from trustees not submitted to a court within thirty (30) days of receipt of the report in ninety (90) percent of all cases.
   8. The Contractor shall review any court filings regarding Special Needs Trusts or Medical Assistance Income Trusts within ten (10) business days and in sufficient time to permit timely court filings.
   9. The Contractor shall refer all matters requiring the attention of the Attorney General's office are within ten (10) business days and in sufficient time to permit timely court filings.
8. Trust Recovery
   1. The Contractor shall notify the representative/attorney of the deceased of the obligation of the trust to relinquish funds in repayment of medical assistance payments within 10 business days of identification of the existence of a medical assistance income trust or a special needs trust.
9. Reporting
   1. The Contractor shall deliver accurate and timely reports to the Agency. All submitted reports shall be concise, free from typographical and grammatical errors, and come to logical conclusions.
   2. Unless otherwise specified, the Contractor shall provide all identified reports in an Agency-approved format and in accordance with timeframes established in the Agency-approved reporting plan.
   3. The Contractor shall submit reports within the timeframes established in the Agency-approved reporting plan and according to the following schedule, unless otherwise specified within the Agency-approved reporting plan:
10. Weekly reports: within two business days of end of reporting period;
11. Monthly reports: within five business days of end of reporting period;
12. Quarterly reports: within ten business days of end of reporting period;
13. Semi-annual reports: within ten business days of end of reporting period;
14. Annual reports: within twenty business days of end of reporting period; and
15. Ad hoc reports: within two business days of request, unless otherwise specified.
    1. For those reports that will be released to external stakeholders, and other special reports as identified within the reporting plan, the Contractor shall:
16. Submit a draft to the Agency for review 30 calendar days prior to the release date.
17. Receive final approval of the report no later than 14 days after first submittal.

**1.4 Monitoring and Review.**

**1.4.1 Agency Monitoring Clause.** The Contract Manager or designee will:

* Verify Invoices and supporting documentation itemizing work performed prior to payment;
* Determine compliance with general contract terms, conditions, and requirements; and
* Assess compliance with Deliverables, performance measures, or other associated requirements based on the following:
  + The Agency’s representative will perform at minimum monthly desk monitoring of deliverables, reports, and results to determine the success of the Contractor.
  + The Agency’s representative will sign-off on completed Scope of Work items, provide feedback on progress and determine if other measures are required to ensure achievement of items approved and documented.

**1.4.2 Agency Review** **Clause.** The Contract Manageror designee will use the results of monitoring activities and other relevant data to assess the Contractor’s overall performance and compliance with the Contract. At a minimum, the Agency will conduct a review annually; however, reviews may occur more frequently at the Agency’s discretion. As part of the review(s), the Agency may require the Contractor to provide additional data,may perform on-site reviews, and may consider information from other sources.

The Agency may require one or more meetings to discuss the outcome of a review. Meetings may be held in person. During the review meetings, the parties will discuss the Deliverables that have been provided or are in process under this Contract, achievement of the performance measures, and any concerns identified through the Agency’s contract monitoring activities.

**1.5 Contract Payment Clause.**

**1.5.1 Pricing.** In accordance with the payment terms outlined in this section and the Contractor’s completion of the Scope of Work as set forth in this Contract, the Contractor will be compensated as follows:

*{To be determined.}*

**1.5.2 Payment Methodology.**

1. The Contractor will be paid a fixed monthly amount for services rendered and a contingency fee based on sums collected, less any contingency fees paid on collections that were later reversed, in accordance with the pricing set forth in Special Contract Attachment 3.1 (i.e., the Cost Proposal).
2. Withhold of First Payment. The Agency will withhold the first monthly payment until such time as the final work plans and SOPs are accepted by the Agency.
3. Deliverables and Performance Measure Withholding Payment. The Contractor may invoice 92% of the fixed amount each month. The Agency will withhold 8% of the monthly amount to assure the Contractor meets required Deliverables and Performance Measures as follows:
   1. Section 1.3.2.C TPL Identification and Verification - 2% of the monthly amount
   2. Section 1.3.2.D TPL Recoveries - 2% of the monthly amount
   3. Section 1.3.2.H Insurance Data Match for the ***hawk-i*** Program - 2% of the monthly amount
   4. Section 1.3.2.L Reporting - 2% of the monthly amount

In order to claim the withhold amount, the Contractor must show in the monthly performance report that each performance measure has been met. Determination of whether performance measures have been met is strictly and solely at the discretion of the Agency.

1. Contingency fees are not subject to the 8% withhold.
2. Withholding of Final Payment. The Agency may withhold the last full monthly payment due at the end of the Contract until such time as the Contractor has fully completed all Turnover activities and completely closed out the Contract.

1.5.3 Timeframes for Regular Submission of Initial and Adjusted Invoices. The Contractor shall submit an Invoice for services rendered in accordance with this Contract. Invoice(s) shall be submitted monthly. Unless a longer timeframe is provided by federal law, and in the absence of the express written consent of the Agency, all Invoices shall be submitted within six months from the last day of the month in which the services were rendered. All adjustments made to Invoices shall be submitted to the Agency within ninety (90) days from the date of the Invoice being adjusted. Invoices shall comply with all applicable rules concerning payment of such claims.

1.5.4 Submission of Invoices at the End of State Fiscal Year. Notwithstanding the timeframes above, and absent (1) longer timeframes established in federal law or (2) the express written consent of the Agency, the Contractor shall submit all Invoices to the Agency for payment by August 1st for all services performed in the preceding state fiscal year (the State fiscal year ends June 30).

1.5.5 Payment of Invoices. The Agency shall verify the Contractor’s performance of the Deliverables and timeliness of Invoices before making payment. The Agency will not pay Invoices that are not considered timely as defined in this Contract. If the Contractor wishes for untimely Invoice(s) to be considered for payment, the Contractor may submit the Invoice(s) in accordance with instructions for the Long Appeal Board Process to the State Appeal Board for consideration. Instructions for this process may be found at: <http://www.dom.state.ia.us/appeals/general_claims.html>.

The Agency shall pay all approved Invoices in arrears. The Agency may pay in less than sixty (60) days, but an election to pay in less than sixty (60) days shall not act as an implied waiver of Iowa law.

**1.5.6 Reimbursable Expenses.** Unless otherwise agreed to by the parties in an amendment or change order to the Contract that is executed by the parties, the Contractor shall not be entitled to receive any other payment or compensation from the State for any Deliverables provided by or on behalf of the Contractor pursuant to this Contract. The Contractor shall be solely responsible for paying all costs, expenses, and charges it incurs in connection with its performance under this Contract.

***1.6 Insurance Coverage.***

The Contractor and any subcontractor shall obtain the following types of insurance for at least the minimum amounts listed below:

|  |  |  |
| --- | --- | --- |
| **Type of Insurance** | **Limit** | **Amount** |
| General Liability (including contractual liability) written on occurrence basis | General Aggregate  Product/Completed  Operations Aggregate  Personal Injury  Each Occurrence | $2 Million  $1 Million  $1 Million  $1 Million |
| Automobile Liability (including any auto, hired autos, and non-owned autos) | Combined Single Limit | $1 Million |
| Excess Liability, Umbrella Form | Each Occurrence  Aggregate | $1 Million  $1 Million |
| Workers’ Compensation and Employer Liability | As required by Iowa law | As Required by Iowa law |
| Property Damage | Each Occurrence  Aggregate | $1 Million  $1 Million |
| Professional Liability (to include malpractice coverage for Estate Recovery and Trust Operations staff) | Each Occurrence  Aggregate | $2 Million  $2 Million |

***1.7 Business Associate Agreement.*** The Contractor, acting as the Agency’s Business Associate, performs certain services on behalf of or for the Agency pursuant to this Contract that require the exchange of information that is protected by the Health Insurance Portability and Accountability Act of 1996, as amended, and the federal regulations published at 45 CFR part 160 and 164. The Business Associate agrees to comply with the Business Associate Agreement Addendum (BAA), and any amendments thereof, as posted to the Agency’s website:<http://dhs.iowa.gov/HIPAA/baa>. This BAA, and any amendments thereof, is incorporated into the Contract by reference.

By signing this Contract, the Business Associate consents to receive notice of future amendments to the BAA through electronic mail. The Business Associate shall file and maintain a current electronic mail address with the Agency for this purpose. The Agency may amend the BAA by posting an updated version of the BAA on the Agency’s website at: <http://dhs.iowa.gov/HIPAA/baa>, and providing the Business Associate electronic notice of the amended BAA. The Business Associate shall be deemed to have accepted the amendment unless the Business Associate notifies the Agency of its non-acceptance in accordance with the Notice provisions of the Contract within 30 days of the Agency’s notice referenced herein. Any agreed alteration of the then current Agency BAA shall have no force or effect until the agreed alteration is reduced to a Contract amendment that must be signed by the Business Associate, Agency Director, and the Agency Security and Privacy Officer.

1.8 ***Qualified Service Organization.*** The Contractor acknowledges that it will be receiving, storing, processing, or otherwise dealing with confidential patient records from programs covered by 42 CFR part 2, and the Contractor acknowledges that it is fully bound by those regulations. The Contractor will resist in judicial proceedings any efforts to obtain access to patient records except as permitted by 42 CFR part 2. “Qualified Service Organization” as used in this Contract has the same meaning as the definition set forthin 42 CFR § 2.11.

**SECTION 2. GENERAL TERMS FOR SERVICES CONTRACTS**

*2.1 Definitions.* Definitions in this section correspond with capitalized terms in the Contract.

**“Acceptance”** means that the Agency has determined that one or more Deliverables satisfy the Agency’s Acceptance Tests. Final Acceptance means that the Agency has determined that all Deliverables satisfy the Agency’s Acceptance Tests. Non-acceptance means that the Agency has determined that one or more Deliverables have not satisfied the Agency’s Acceptance Tests.

**“Acceptance Criteria”** means the Specifications, goals, performance measures, testing results and/or other criteria designated by the Agency and against which the Deliverables may be evaluated for purposes of Acceptance or Non-acceptance thereof.

**“Acceptance Tests” or “Acceptance Testing”** mean the tests, reviews, and other activities that are performed by or on behalf of the Agency to determine whether the Deliverables meet the Acceptance Criteria or otherwise satisfy the Agency, as determined by the Agency in its sole discretion.

**“Applicable Law”** means all applicable federal, state, and local laws, rules, ordinances, regulations, orders, guidance, and policies in place at Contract execution as well as any and all future amendments, changes, and additions to such laws as of the effective date of such change. Applicable Law includes, without limitation, all laws that pertain to the prevention of discrimination in employment and in the provision of services (e.g., Iowa Code ch. 216 and Iowa Code § 19B.7). For employment, this would include equal employment opportunity and affirmative action, and the use of targeted small businesses as subcontractors of suppliers. The term Applicable Law also encompasses the applicable provisions of Section 508 of the Rehabilitation Act of 1973, as amended, and all standards and requirements established by the Architectural and Transportation Barriers Access Board and the Iowa Office of the Chief Information Officer.

**“Bid Proposal” or “Proposal”** means the Contractor’s proposal submitted in response to the Solicitation, if this Contract arises out of a competitive process.

**“Business Days”** means any day other than a Saturday, Sunday, or State holiday as specified by Iowa Code §1C.2.

**“Confidential Information”** means, subject to any applicable State and federal laws and regulations, including but not limited to Iowa Code Chapter 22, any confidential or proprietary information or trade secrets disclosed by either party (a “Disclosing Party”) to the other party (a “Receiving Party”) that, at the time of disclosure, is designated as confidential (or like designation), is disclosed in circumstances of confidence, or would be understood by the parties, exercising reasonable business judgment, to be confidential. Regardless of whether or not the following information is designated as confidential, the term Confidential Information includes information that could be used to identify recipients or applicants of Agency services and recipients of Contract services including Protected Health Information (45 C.F.R. § 160.103) and Personal Information (Iowa Code § 715C.1(11)), Agency security protocols and procedures, Agency system architecture, information that could compromise the security of the Agency network or systems, and information about the Agency’s current or future competitive procurements, including the evaluation process prior to the formal announcement of results.

Confidential Information does not include any information that: (1) was rightfully in the possession of the Receiving Party from a source other than the Disclosing Party prior to the time of disclosure of the information by the Disclosing Party to the Receiving Party; (2) was known to the Receiving Party prior to the disclosure of the information by the Disclosing Party; (3) was disclosed to the Receiving Party without restriction by an independent third party having a legal right to disclose the information; (4) is in the public domain or shall have become publicly available other than as a result of disclosure by the Receiving Party in violation of this Agreement or in breach of any other agreement with the Disclosing Party; (5) is independently developed by the Receiving Party without any reliance on Confidential Information disclosed by the Disclosing Party; or (6) is disclosed by the Receiving Party with the written consent of the Disclosing Party.

**“Contract”** means the collective documentation memorializing the terms of the agreement between the Agency and the Contractor identified in the Contract Declarations and Execution Section and includes the signed Contract Declarations and Execution Section, the General Terms for Services Contracts, the Special Terms, and any Special Contract Attachments, as these documents may be amended from time to time.

**“Deficiency”** means a defect, flaw, anomaly, failure, omission, interruption of service, or other problem of any nature whatsoever with respect to a Deliverable, including, without limitation, any failure of a Deliverable to conform to or meet an applicable specification. Deficiency also includes the lack of something essential or necessary for completeness or proper functioning of a Deliverable.

**“Deliverables**” means all of the services, goods, products, work, work product, data, items, materials and property to be created, developed, produced, delivered, performed, or provided by or on behalf of, or made available through, the Contractor (or any agent, contractor or subcontractor of the Contractor) in connection with this Contract. This includes data that is collected on behalf of the Agency.

**“Documentation”** means any and all technical information, commentary, explanations, design documents, system architecture documents, database layouts, test materials, training materials, guides, manuals, worksheets, notes, work papers, and all other information, documentation and materials related to or used in conjunction with the Deliverables, in any medium, including hard copy, electronic, digital, and magnetically or optically encoded media.

**“Force Majeure”** means an event that no human foresight could anticipate or which if anticipated, is incapable of being avoided. Circumstances must be abnormal and unforeseeable, so that the consequences could not have been avoided through the exercise of all due care. The delay or impossibility of performance must be beyond the control and without the fault or negligence of the parties. Force Majeure does not include: financial difficulties of the Contractor or any parent, subsidiary, affiliated or associated company of the Contractor; claims or court orders that restrict the Contractor’s ability to deliver the Deliverables contemplated by this Contract; strikes; labor unrest; or supply chain disruptions.

***“*Invoice*”*** means a Contractor’s claim for payment. At the Agency’s discretion, claims may be submitted on an original invoice from the Contractor or may be submitted on a claim form acceptable to the Agency, such as a General Accounting Expenditure (GAX) form.

**“Solicitation”** means the formal or informal procurement (and any Addenda thereto) identified in the Contracts Declarations and Execution Section that was issued to solicit the Bid Proposal leading to this Contract.

**“Special Contract Attachments”** means any attachment to this Contract.

**“Special Terms”** means the Section of the Contract entitled “Special Terms” that contains terms specific to this Contract, including but not limited to the Scope of Work and contract payment terms. If there is a conflict between the General Terms for Services Contracts and the Special Terms, the Special Terms shall prevail.

**“Specifications”** means all specifications, requirements, technical standards, performance standards, representations, and other criteria related to the Deliverables stated or expressed in this Contract, the Documentation, the Solicitation, and the Bid Proposal. Specifications shall include the Acceptance Criteria and any specifications, standards, or criteria stated or set forth in any applicable state, federal, foreign, and local laws, rules and regulations. The Specifications are incorporated into this Contract by reference as if fully set forth in this Contract.

**“State”** means the State of Iowa, the Agency, and all State of Iowa agencies, boards, and commissions, and when this Contract is available to political subdivisions, any political subdivisions of the State of Iowa.

***2.2 Duration of Contract.***The term of the Contract shall begin and end on the dates specified in the Contract Declarations and Execution Section, unless extended or terminated earlier in accordance with the termination provisions of this Contract. The Agency may, in its sole discretion, amend the end date of this Contract by exercising any applicable extension by giving the Contractor a written extension at least sixty (60) days prior to the expiration of the initial term or renewal term.

*2.3 Scope of Work.* The Contractor shall provide Deliverables that comply with and conform to the Specifications. Deliverables shall be performed within the boundaries of the United States.

***2.4 Compensation.***

**2.4.1 Withholding Payments.** In addition to pursuing any other remedy provided herein or by law, the Agency may withhold compensation or payments to the Contractor, in whole or in part, without penalty to the Agency or work stoppage by the Contractor, in the event the Agency determines that: (1) the Contractor has failed to perform any of its duties or obligations as set forth in this Contract; (2) any Deliverable has failed to meet or conform to any applicable Specifications or contains or is experiencing a Deficiency; or (3) the Contractor has failed to perform Close-Out Event(s). No interest shall accrue or be paid to the Contractor on any compensation or other amounts withheld or retained by the Agency under this Contract.

**2.4.2 Erroneous Payments and Credits.** The Contractor shall promptly repay or refund the full amount of any overpayment or erroneous payment within thirty (30) Business Days after either discovery by the Contractor or notification by the Agency of the overpayment or erroneous payment.

**2.4.3** **Offset Against Sums Owed by the Contractor.** In the event that the Contractor owes the State any sum under the terms of this Contract, any other contract or agreement, pursuant to a judgment, or pursuant to any law, the State may, in its sole discretion, offset any such sum against: (1) any sum Invoiced by, or owed to, the Contractor under this Contract, or (2) any sum or amount owed by the State to the Contractor, unless otherwise required by law. The Contractor agrees that this provision constitutes proper and timely notice under any applicable laws governing offset.

***2.5 Termination.***

**2.5.1 Termination for Cause by the Agency.** The Agency may terminate this Contract upon written notice for the breach by the Contractor or any subcontractor of any material term, condition or provision of this Contract, if such breach is not cured within the time period specified in the Agency’s notice of breach or any subsequent notice or correspondence delivered by the Agency to the Contractor, provided that cure is feasible. In addition, the Agency may terminate this Contract effective immediately without penalty and without advance notice or opportunity to cure for any of the following reasons:

**2.5.1.1** The Contractor furnished any statement, representation, warranty, or certification in connection with this Contract, the Solicitation, or the Bid Proposal that is false, deceptive, or materially incorrect or incomplete;

**2.5.1.2** The Contractor or any of the Contractor’s officers, directors, employees, agents, subsidiaries, affiliates, contractors or subcontractors has committed or engaged in fraud, misappropriation, embezzlement, malfeasance, misfeasance, or bad faith;

**2.5.1.3** The Contractor or any parent or affiliate of the Contractor owning a controlling interest in the Contractor dissolves;

**2.5.1.4** The Contractor terminates or suspends its business;

**2.5.1.5** The Contractor’s corporate existence or good standing in Iowa is suspended, terminated, revoked or forfeited, or any license or certification held by the Contractor related to the Contractor’s performance under this Contract is suspended, terminated, revoked, or forfeited;

**2.5.1.6** The Contractor has failed to comply with any applicable international, federal, state (including, but not limited to Iowa Code Chapter 8F), or local laws, rules, ordinances, regulations, or orders when performing within the scope of this Contract;

**2.5.1.7** The Agency determines or believes the Contractor has engaged in conduct that: (1) has or may expose the Agency or the State to material liability; or (2) has caused or may cause a person’s life, health, or safety to be jeopardized;

**2.5.1.8** The Contractor infringes or allegedly infringes or violates any patent, trademark, copyright, trade dress, or any other intellectual property right or proprietary right, or the Contractor misappropriates or allegedly misappropriates a trade secret;

**2.5.1.9** TheContractor fails to comply with any applicable confidentiality laws, privacy laws, or any provisions of this Contract pertaining to confidentiality or privacy; or

**2.5.1.10** Any of the following has been engaged in by or occurred with respect to the Contractor or any corporation, shareholder or entity having or owning a controlling interest in the Contractor:

* Commencing or permitting a filing against it which is not discharged within ninety (90) days, of a case or other proceeding seeking liquidation, reorganization, or other relief with respect to itself or its debts under any bankruptcy, insolvency, or other similar law now or hereafter in effect; or filing an answer admitting the material allegations of a petition filed against it in any involuntary case or other proceeding commenced against it seeking liquidation, reorganization, or other relief under any bankruptcy, insolvency, or other similar law now or hereafter in effect with respect to it or its debts; or consenting to any such relief or to the appointment of or taking possession by any such official in any voluntary case or other proceeding commenced against it seeking liquidation, reorganization, or other relief under any bankruptcy, insolvency, or other similar law now or hereafter in effect with respect to it or its debts;
* Seeking or suffering the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its assets;
* Making an assignment for the benefit of creditors;
* Failing, being unable, or admitting in writing the inability generally to pay its debts or obligations as they become due or failing to maintain a positive net worth and such additional capital and liquidity as is reasonably adequate or necessary in connection with the Contractor’s performance of its obligations under this Contract; or
* Taking any action to authorize any of the foregoing.

**2.5.2 Termination Upon Notice.** Following a thirty (30) day written notice, the Agency may terminate this Contract in whole or in part without penalty and without incurring any further obligation to the Contractor. Termination can be for any reason or no reason at all.

**2.5.3 Termination Due to Lack of Funds or Change in Law.** Notwithstanding anything in this Contract to the contrary, and subject to the limitations set forth below, the Agency shall have the right to terminate this Contract without penalty and without any advance notice as a result of any of the following:

**2.5.3.1** The legislature or governor fail in the sole opinion of the Agency to appropriate funds sufficient to allow the Agency to either meet its obligations under this Contract or to operate as required and to fulfill its obligations under this Contract; or

**2.5.3.2** If funds are de-appropriated, reduced, not allocated, or receipt of funds is delayed, or if any funds or revenues needed by the Agency to make any payment hereunder are insufficient or unavailable for any other reason as determined by the Agency in its sole discretion; or

**2.5.3.3** If the Agency’s authorization to conduct its business or engage in activities or operations related to the subject matter of this Contract is withdrawn or materially altered or modified; or

**2.5.3.4** If the Agency’s duties, programs or responsibilities are modified or materially altered; or

**2.5.3.5** If there is a decision of any court, administrative law judge or an arbitration panel or any law, rule, regulation, or order is enacted, promulgated, or issued that materially or adversely affects the Agency’s ability to fulfill any of its obligations under this Contract.

The Agency shall provide the Contractor with written notice of termination pursuant to this section.

**2.5.4** **Other remedies.** The Agency’s right to terminate this Contract shall be in addition to and not exclusive of other remedies available to the Agency, and the Agency shall be entitled to exercise any other rights and pursue any remedies, in law, at equity, or otherwise.

**2.5.5 Limitation of the State’s Payment Obligations.** In the event of termination of this Contract for any reason by either party (except for termination by the Agency pursuant to Section 2.5.1, *Termination for Cause by the Agency*) the Agency shall pay only those amounts, if any, due and owing to the Contractor hereunder for Deliverables actually and satisfactorily provided in accordance with the provisions of this Contract up to and including the date of termination of this Contract and for which the Agency is obligated to pay pursuant to this Contract; provided however, that in the event the Agency terminates this Contract pursuant to Section 2.5.3, *Termination Due to Lack of Funds or Change in Law*, the Agency’s obligation to pay the Contractor such amounts and other compensation shall be limited by, and subject to, legally available funds. Payment will be made only upon submission of Invoices and proper proof of the Contractor’s claim. Notwithstanding the foregoing, this section in no way limits the rights or remedies available to the Agency and shall not be construed to require the Agency to pay any compensation or other amounts hereunder in the event of the Contractor’s breach of this Contract or any amounts withheld by the Agency in accordance with the terms of this Contract. The Agency shall not be liable, under any circumstances, for any of the following:

**2.5.5.1** The payment of unemployment compensation to the Contractor’s employees;

**2.5.5.2** The payment of workers’ compensation claims, which occur during the Contract or extend beyond the date on which the Contract terminates;

**2.5.5.3** Any costs incurred by the Contractor in its performance of the Contract, including, but not limited to, startup costs, overhead, or other costs associated with the performance of the Contract;

**2.5.5.4** Any damages or other amounts associated with the loss of prospective profits, anticipated sales, goodwill, or for expenditures, investments, or commitments made in connection with this Contract; or

**2.5.5.5** Any taxes the Contractor may owe in connection with the performance of this Contract, including, but not limited to, sales taxes, excise taxes, use taxes, income taxes, or property taxes.

**2.5.6 Contractor’s Contract Close-Out Duties.** Upon receipt of notice of termination, at expiration of the Contract, or upon request of the Agency (hereafter, “Close-Out Event”), the Contractor shall:

**2.5.6.1** Cease workunder this Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the Close-Out Event, describing the status of all work performed under the Contract and such other matters as the Agency may require.

**2.5.6.2** Immediately cease using and return to the Agency any property or materials, whether tangible or intangible, provided by the Agency to the Contractor.

**2.5.6.3** Cooperate in good faith with the Agency and its employees, agents, and independent contractors during the transition period between the Close-Out Event and the substitution of any replacement service provider.

**2.5.6.4** Immediately return to the Agency any payments made by the Agency for Deliverables that were not rendered or provided by the Contractor.

**2.5.6.5** Immediately deliver to the Agency any and all Deliverables for which the Agency has made payment (in whole or in part) that are in the possession or under the control of the Contractor or its agents or subcontractors in whatever stage of development and form of recordation such property is expressed or embodied at that time.

**2.5.7 Termination for Cause by the Contractor.** TheContractor may only terminate this Contract for the breach by the Agency of any material term of this Contract, if such breach is not cured within sixty (60) days of the Agency’s receipt of the Contractor’s written notice of breach.

***2.6 Change Order Procedure.*** The Agency may at any time request a modification to the Scope of Work using a change order. The following procedures for a change order shall be followed:

**2.6.1** **Written Request.** The Agency shall specify in writing the desired modifications to the same degree of specificity as in the original Scope of Work.

**2.6.2 The Contractor’s Response.** The Contractor shall submit to the Agency a firm cost proposal for the requested change order within five (5) Business Days of receiving the change order request.

**2.6.3 Acceptance of the Contractor Estimate.** If the Agency accepts the cost proposal presented by the Contractor, the Contractor shall provide the modified Deliverable subject to the cost proposal included in the Contractor response. The Contractor’s provision of the modified Deliverables shall be governed by the terms and conditions of this Contract.

**2.6.4 Adjustment to Compensation.** The parties acknowledge that a change order for this Contract may or may not entitle the Contractor to an equitable adjustment in the Contractor’s compensation or the performance deadlines under this Contract.

***2.7 Indemnification.***

**2.7.1 By the Contractor.** The Contractor agrees to indemnify and hold harmless the State and its officers, appointed and elected officials, board and commission members, employees, volunteers, and agents (collectively the “Indemnified Parties”), from any and all costs, expenses, losses, claims, damages, liabilities, settlements, and judgments (including, without limitation, the reasonable value of the time spent by the Attorney General’s Office,) and the costs, expenses, and attorneys’ fees of other counsel retained by the Indemnified Parties directly or indirectly related to, resulting from, or arising out of this Contract, including but not limited to any claims related to, resulting from, or arising out of:

**2.7.1.1** Any breach of this Contract;

**2.7.1.2** Any negligent, intentional, or wrongful act or omission of the Contractor or any agent or subcontractor utilized or employed by the Contractor;

**2.7.1.3** The Contractor’s performance or attempted performance of this Contract, including any agent or subcontractor utilized or employed by the Contractor;

**2.7.1.4** Any failure by the Contractor to make all reports, payments, and withholdings required by federal and state law with respect to social security, employee income and other taxes, fees, or costs required by the Contractor to conduct business in the State of Iowa;

**2.7.1.5** Any claim of misappropriation of a trade secret or infringement or violation of any intellectual property rights, proprietary rights, or personal rights of any third party, including any claim that any Deliverable or any use thereof (or the exercise of any rights with respect thereto) infringes, violates, or misappropriates any patent, copyright, trade secret, trademark, trade dress, mask work, utility design, or other intellectual property right or proprietary right of any third party.

***2.8 Insurance.***

**2.8.1 Insurance Requirements.** The Contractor, and any subcontractor, shall maintain in full force and effect, with insurance companies licensed by the State of Iowa, at the Contractor’s expense, insurance covering its work during the entire term of this Contract, which includes any extensions or renewals thereof. The Contractor’s insurance shall, among other things:

**2.8.1.1** Be occurrence based and shall insure against any loss or damage resulting from or related to the Contractor’s performance of this Contract regardless of the date the claim is filed or expiration of the policy.

**2.8.1.2** Name the State of Iowa and the Agency as additional insureds or loss payees on the policies for all coverages required by this Contract, with the exception of Workers’ Compensation, or the Contractor shall obtain an endorsement to the same effect; and

**2.8.1.3** Provide a waiver of any subrogation rights that any of its insurance carriers might have against the State on the policies for all coverages required by this Contract, with the exception of Workers’ Compensation.

The requirements set forth in this section shall be indicated on the certificates of insurance coverage supplied to the Agency.

**2.8.2** **Types and Amounts of Insurance Required.** Unless otherwise requested by the Agency in writing, the Contractor shall cause to be issued insurance coverages insuring the Contractor and/or subcontractors against all general liabilities, product liability, personal injury, property damage, and (where applicable) professional liability in the amount specified in the Special Terms for each occurrence. In addition, the Contractor shall ensure it has any necessary workers’ compensation and employer liability insurance as required by Iowa law.

**2.8.3 Certificates of Coverage.** The Contractor shall submit certificates of the insurance, which indicate coverage and notice provisions as required by this Contract, to the Agency upon execution of this Contract. The Contractor shall maintain all insurance policies required by this Contract in full force and effect during the entire term of this Contract, which includes any extensions or renewals thereof, and shall not permit such policies to be canceled or amended except with the advance written approval of the Agency. The insurer shall state in the certificate that no cancellation of the insurance will be made without at least a thirty (30) day prior written notice to the Agency. The certificates shall be subject to approval by the Agency. Approval of the insurance certificates by the Agency shall not relieve the Contractor of any obligation under this Contract**.**

**2.8.4 Notice of Claim.** Contractor shall provide prompt notice to the Agency of any claim related to the contracted services made by a third party. If the claim matures to litigation, the Contractor shall keep the Agency regularly informed of the status of the lawsuit, including any substantive rulings. The Contractor shall confer directly with the Agency about and before any substantive settlement negotiations.

***2.9 Ownership and Security of Agency Information*.**

**2.9.1 Ownership and Disposition of Agency Information.** Any information either supplied by the Agency to the Contractor, or collected by the Contractor on the Agency’s behalf in the course of the performance of this Contract, shall be considered the property of the Agency (“Agency Information”). The Contractor will not use the Agency Information for any purpose other than providing services under the Contract, nor will any part of the information and records be disclosed, sold, assigned, leased, or otherwise provided to third parties or commercially exploited by or on behalf of the Contractor. The Agency shall own all Agency Information that may reside within the Contractor’s hosting environment and/or equipment/media.

**2.9.2 Foreign Hosting and Storage Prohibited.** Agency Information shall be hosted and/or stored within the continental United States only.

**2.9.3** **Access to Agency Information that is Confidential Information**. The Contractor’s employees, agents, and subcontractors may have access to Agency Information that is Confidential Information to the extent necessary to carry out responsibilities under the Contract. Access to such Confidential Information shall comply with both the State’s and the Agency’s policies and procedures. In all instances, access to Agency Information from outside of the United States and its protectorates, either by the Contractor, including a foreign office or division of the Contractor or its affiliates or associates, or any subcontractor, is prohibited.

**2.9.4 No Use or Disclosure of Confidential Information.** Confidential Information collected, maintained, or used in the course of performance of the Contract shall only be used or disclosed by the Contractor as expressly authorized by law and only with the prior written consent of the Agency, either during the period of the Contract or thereafter. The Contractor shall immediately report to the Agency any unauthorized use or disclosure of Confidential Information. The Contractor may be held civilly or criminally liable for improper use or disclosure of Confidential Information.

**2.9.5** **Contractor Breach Notification Obligations.** The Contractor agrees to comply with all applicable laws that require the notification of individuals in the event of unauthorized use or disclosure of Confidential Information or other event(s) requiring notification in accordance with applicable law. In the event of a breach of the Contractor's security obligations or other event requiring notification under applicable law, the Contractor agrees to follow Agency directives, which may include assuming responsibility for informing all such individuals in accordance with applicable laws, and to indemnify, hold harmless, and defend the State of Iowa against any claims, damages, or other harm related to such breach.

**2.9.6** **Compliance of Contractor Personnel.** The Contractor and the Contractor’s personnel shall comply with the Agency’s and the State’s security and personnel policies, procedures, and rules, including any procedure which the Agency’s personnel, contractors, and consultants are normally asked to follow. The Contractor agrees to cooperate fully and to provide any assistance necessary to the Agency in the investigation of any security breaches that may involve the Contractor or the Contractor’s personnel. All services shall be performed in accordance with State Information Technology security standards and policies as well as Agency security protocols and procedures. By way of example only, see Iowa Code 8B.23, <http://secureonline.iowa.gov/links/index.html>, and <https://ocio.iowa.gov/home/standards>.

**2.9.7 Subpoena.** In the event that a subpoena or other legal process is served upon the Contractor for records containing Confidential Information, the Contractor shall promptly notify the Agency and cooperate with the Agency in any lawful effort to protect the Confidential Information.

**2.9.8** **Return and/or** **Destruction of Information.** Upon expiration or termination of the Contract for any reason, the Contractor agrees to comply with all Agency directives regarding the return or destruction of all Agency Information and any derivative work. Delivery of returned Agency Information must be through a secured electronic transmission or by parcel service that utilizes tracking numbers. Such information must be provided in a format useable by the Agency. Following the Agency’s verified receipt of the Agency Information and any derivative work, the Contractor agrees to physically and/or electronically destroy or erase all residual Agency Information regardless of format from the entire Contractor’s technology resources and any other storage media. This includes, but is not limited to, all production copies, test copies, backup copies and /or printed copies of information created on any other servers or media and at all other Contractor sites. Any permitted destruction of Agency Information must occur in such a manner as to render the information incapable of being reconstructed or recovered. The Contractor will provide a record of information destruction to the Agency for inspection and records retention no later than thirty (30) days after destruction.

**2.9.9** **Contractor’s Inability to Return and/or Destroy Information.** If for any reason the Agency Information cannot be returned and/or destroyed upon expiration or termination of the Contract, the Contractor agrees to notify the Agency with an explanation as to the conditions which make return and/or destruction not possible or feasible. Upon mutual agreement by both parties that the return and/or destruction of the information is not possible or feasible, the Contractor shall make the Agency Information inaccessible. The Contractor shall not use or disclose such retained Agency Information for any purposes other than those expressly permitted by the Agency. The Contractor shall provide to the Agency a detailed description as to the procedures and methods used to make the Agency Information inaccessible no later than thirty (30) days after making the information inaccessible. If the Agency provides written permission for the Contractor to retain the Agency Information in the Contractor’s information systems, the Contractor will extend the protections of this Contract to such information and limit any further uses or disclosures of such information.

**2.9.10 Contractors that are Business Associates.** If the Contractor is the Agency’s Business Associate, and there is a conflict between the Business Associate Agreement and this Section 2.9, the provisions in the Business Associate Agreement shall control.

***2.10 Intellectual Property.***

**2.10.1 Ownership and Assignment of Other Deliverables.** The Contractor agrees that the State and the Agency shall become the sole and exclusive owners of all Deliverables. The Contractor hereby irrevocably assigns, transfers and conveys to the State and the Agency all right, title and interest in and to all Deliverables and all intellectual property rights and proprietary rights arising out of, embodied in, or related to such Deliverables, including copyrights, patents, trademarks, trade secrets, trade dress, mask work, utility design, derivative works, and all other rights and interests therein or related thereto. The Contractor represents and warrants that the State and the Agency shall acquire good and clear title to all Deliverables, free from any claims, liens, security interests, encumbrances, intellectual property rights, proprietary rights, or other rights or interests of the Contractor or of any third party, including any employee, agent, contractor, subcontractor, subsidiary, or affiliate of the Contractor. The Contractor (and Contractor’s employees, agents, contractors, subcontractors, subsidiaries and affiliates) shall not retain any property interests or other rights in and to the Deliverables and shall not use any Deliverables, in whole or in part, for any purpose, without the prior written consent of the Agency and the payment of such royalties or other compensation as the Agency deems appropriate. Unless otherwise requested by the Agency, upon completion or termination of this Contract, the Contractor will immediately turn over to the Agency all Deliverables not previously delivered to the Agency, and no copies thereof shall be retained by the Contractor or its employees, agents, subcontractors, or affiliates, without the prior written consent of the Agency.

**2.10.2 Waiver.** To the extent any of the Contractor’s rights in any Deliverables are not subject to assignment or transfer hereunder, including any moral rights and any rights of attribution and of integrity, the Contractor hereby irrevocably and unconditionally waives all such rights and enforcement thereof and agrees not to challenge the State’s rights in and to the Deliverables.

**2.10.3 Further Assurances.** At the Agency’s request, the Contractor will execute and deliver such instruments and take such other action as may be requested by the Agency to establish, perfect, or protect the State’s rights in and to the Deliverables and to carry out the assignments, transfers and conveyances set forth in Section 2.10, *Intellectual Property*.

**2.10.4 Publications.** Prior to completion of all services required by this Contract, the Contractor shall not publish in any format any final or interim report, document, form, or other material developed as a result of this Contract without the express written consent of the Agency. Upon completion of all services required by this Contract, the Contractor may publish or use materials developed as a result of this Contract, subject to confidentiality restrictions, and only after the Agency has had an opportunity to review and comment upon the publication. Any such publication shall contain a statement that the work was done pursuant to a contract with the Agency and that it does not necessarily reflect the opinions, findings, and conclusions of the Agency.

**2.10.5 Federal License.**  As this Contract is at least partially federally funded, the federal government reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use for federal government purposes, software and associated documentation designed, developed or installed in whole or in part with federal funds pursuant to this Contract.

***2.11 Warranties.***

**2.11.1 Construction of Warranties Expressed in this Contract with Warranties Implied by Law.** Warranties made by the Contractor in this Contract, whether: (1) this Contract specifically denominates the Contractor's promise as a warranty; or (2) the warranty is created by the Contractor's affirmation or promise, by a description of the Deliverables to be provided, or by provision of samples to the Agency, shall not be construed as limiting or negating any warranty provided by law, including without limitation, warranties that arise through the course of dealing or usage of trade. The warranties expressed in this Contract are intended to modify the warranties implied by law only to the extent that they expand the warranties applicable to the Deliverables provided by the Contractor. With the exception of Subsection 2.11.3, the provisions of this section apply during the Warranty Period as defined in the Contract Declarations and Execution Section.

**2.11.2 Contractor represents and warrants that:**

**2.11.2.1** All Deliverables shall be wholly original with and prepared solely by the Contractor; or it owns, possesses, holds, and has received or secured all rights, permits, permissions, licenses, and authority necessary to provide the Deliverables to the Agency hereunder and to assign, grant and convey the rights, benefits, licenses, and other rights assigned, granted, or conveyed to the Agency hereunder or under any license agreement related hereto without violating any rights of any third party;

**2.11.2.2** The Contractor has not previously and will not grant any rights in any Deliverables to any third party that are inconsistent with the rights granted to the Agency herein; and

**2.11.2.3** The Agency shall peacefully and quietly have, hold, possess, use, and enjoy the Deliverables without suit, disruption, or interruption.

**2.11.3 The Contractor represents and warrants that:**

**2.11.3.1** The Deliverables (and all intellectual property rights and proprietary rights arising out of, embodied in, or related to such Deliverables); and

**2.11.3.2** The Agency’s use of, and exercise of any rights with respect to, the Deliverables (and all intellectual property rights and proprietary rights arising out of, embodied in, or related to such Deliverables), do not and will not, under any circumstances, misappropriate a trade secret or infringe upon or violate any copyright, patent, trademark, trade dress or other intellectual property right, proprietary right or personal right of any third party. The Contractor further represents and warrants there is no pending or threatened claim, litigation, or action that is based on a claim of infringement or violation of an intellectual property right, proprietary right or personal right or misappropriation of a trade secret related to the Deliverables. The Contractor shall inform the Agency in writing immediately upon becoming aware of any actual, potential, or threatened claim of or cause of action for infringement or violation or an intellectual property right, proprietary right, or personal right or misappropriation of a trade secret. If such a claim or cause of action arises or is likely to arise, then the Contractor shall, at the Agency’s request and at the Contractor’s sole expense:

* Procure for the Agency the right or license to continue to use the Deliverable at issue;
* Replace such Deliverable with a functionally equivalent or superior Deliverable free of any such infringement, violation, or misappropriation;
* Modify or replace the affected portion of the Deliverable with a functionally equivalent or superior Deliverable free of any such infringement, violation, or misappropriation; or
* Accept the return of the Deliverable at issue and refund to the Agency all fees, charges, and any other amounts paid by the Agency with respect to such Deliverable. In addition, the Contractor agrees to indemnify, defend, protect, and hold harmless the State and its officers, directors, employees, officials, and agents as provided in the Indemnification Section of this Contract, including for any breach of the representations and warranties made by the Contractor in this section.

The warranty provided in this Section 2.11.3 shall be perpetual, shall not be subject to the contractual Warranty Period, and shall survive termination of this Contract. The foregoing remedies provided in this subsection shall be in addition to and not exclusive of other remedies available to the Agency and shall survive termination of this Contract.

**2.11.4 The Contractor represents and warrants that the Deliverables shall:**

**2.11.4.1** Be free from material Deficiencies; and

**2.11.4.2** Meet, conform to, and operate in accordance with all Specifications and in accordance with this Contract during the Warranty Period, as defined in the Contract Declarations and Execution Section. During the Warranty Period the Contractor shall, at its expense, repair, correct or replace any Deliverable that contains or experiences material Deficiencies or fails to meet, conform to or operate in accordance with Specifications within five (5) Business Days of receiving notice of such Deficiencies or failures from the Agency or within such other period as the Agency specifies in the notice. In the event the Contractor is unable to repair, correct, or replace such Deliverable to the Agency’s satisfaction, the Contractor shall refund the fees or other amounts paid for the Deliverables and for any services related thereto. The foregoing shall not constitute an exclusive remedy under this Contract, and the Agency shall be entitled to pursue any other available contractual, legal, or equitable remedies. The Contractor shall be available at all reasonable times to assist the Agency with questions, problems, and concerns about the Deliverables, to inform the Agency promptly of any known Deficiencies in any Deliverables, repair and correct any Deliverables not performing in accordance with the warranties contained in this Contract, notwithstanding that such Deliverables may have been accepted by the Agency, and provide the Agency with all necessary materials with respect to such repaired or corrected Deliverable.

**2.11.5** The Contractor represents, warrants and covenants that all services to be performed under this Contract shall be performed in a professional, competent, diligent, and workmanlike manner by knowledgeable, trained, and qualified personnel, all in accordance with the terms and Specifications of this Contract and the standards of performance considered generally acceptable in the industry for similar tasks and projects. In the absence of a Specification for the performance of any portion of this Contract, the parties agree that the applicable Specification shall be the generally accepted industry standard. So long as the Agency notifies the Contractor of any services performed in violation of this standard, the Contractor shall re-perform the services at no cost to the Agency, such that the services are rendered in the above-specified manner, or if the Contractor is unable to perform the services as warranted, the Contractor shall reimburse the Agency any fees or compensation paid to the Contractor for the unsatisfactory services.

**2.11.6** The Contractor represents and warrants that the Deliverables will comply with all Applicable Law.

**2.11.7** **Obligations Owed to Third Parties.** The Contractor represents and warrants that all obligations owed to third parties with respect to the activities contemplated to be undertaken by the Contractor pursuant to this Contract are or will be fully satisfied by the Contractor so that the Agency will not have any obligations with respect thereto.

***2.12 Acceptance of Deliverables.***

**2.12.1 Acceptance of Written Deliverables.** For the purposes of this section, written Deliverables means documents including, but not limited to project plans, planning documents, reports, or instructional materials (“Written Deliverables”). Although the Agency determines what Written Deliverables are subject to formal Acceptance, this section generally does not apply to routine progress or financial reports. Absent more specific Acceptance Criteria in the Special Terms, following delivery of any Written Deliverable pursuant to the Contract, the Agency will notify the Contractor whether or not the Deliverable meets contractual specifications and requirements. Written Deliverables shall not be considered accepted by the Agency, nor does the Agency have an obligation to pay for such Deliverables, unless and until the Agency has notified the Contractor of the Agency’s Final Acceptance of the Written Deliverables. In all cases, any statements included in such Written Deliverables that alter or conflict with any contractual requirements shall in no way be considered as changing the contractual requirements unless and until the parties formally amend the Contract.

**2.12.2. Acceptance of Software Deliverables.** Except as otherwise specified in the Scope of Work, all Deliverables pertaining to software and related hardware components (“Software Deliverables”) shall be subject to the Agency’s Acceptance Testing and Acceptance, unless otherwise specified in the Scope of Work. Upon completion of all work to be performed by the Contractor with respect to any Software Deliverable, the Contractor shall deliver a written notice to the Agency certifying that the Software Deliverable meets and conforms to applicable Specifications and is ready for the Agency to conduct Acceptance Testing; provided, however, that the Contractor shall pretest the Software Deliverable to determine that it meets and operates in accordance with applicable Specifications prior to delivering such notice to the Agency. At the Agency’s request, the Contractor shall assist the Agency in performing Acceptance Tests at no additional cost to the Agency. Within a reasonable period of time after the Agency has completed its Acceptance Testing, the Agency shall provide the Contractor with written notice of Acceptance or Non-acceptance with respect to each Software Deliverable that was evaluated during such Acceptance Testing. In the event the Agency provides notice of Non-acceptance to the Contractor with respect to any Software Deliverable, the Contractor shall correct and repair such Software Deliverable and submit it to the Agency within ten (10) days of the Contractor’s receipt of notice of Non-acceptance so that the Agency may re-conduct its Acceptance Tests.

In the event the Agency determines, after re-conducting its Acceptance Tests with respect to any Software Deliverable that the Contractor has attempted to correct or repair pursuant to this section, that such Software Deliverable fails to satisfy its Acceptance Tests, then the Agency shall have the continuing right, at its sole option, to: (1) require the Contractor to correct and repair such Software Deliverable within such period of time as the Agency may specify in a written notice to the Contractor; (2) refuse to accept such Software Deliverable without penalty and without any obligation to pay any fees or other amounts associated with such Software Deliverable (or receive a refund of any fees or amounts already paid with respect to such Software Deliverable); (3) accept such Software Deliverable on the condition that any fees or other amounts payable with respect thereto shall be reduced or discounted to reflect, to the Agency’s satisfaction, the Deficiencies present therein and any reduced value or functionality of such Software Deliverable or the costs likely to be incurred by the Agency to correct such Deficiencies; or (4) terminate this Contract and/or seek any and all available remedies, including damages. Notwithstanding the provisions of Section 2.5.1, *Termination for Cause by the Agency*, of this Contract, the Agency may terminate this Contract pursuant to this section without providing the Contractor with any notice or opportunity to cure provided for in the termination provisions of this Contract. The Agency’s right to exercise the foregoing rights and remedies, including termination of this Contract, shall remain in effect until Acceptance Tests are successfully completed to the Agency’s satisfaction and the Agency has provided the Contractor with written notice of Final Acceptance.

**2.12.3 Notice of Acceptance and Future Deficiencies.** The Contractor’s receipt of any notice of Acceptance, including Final Acceptance, with respect to any Deliverable shall not be construed as a waiver of any of the Agency’s rights to enforce the terms of this Contract or require performance in the event the Contractor breaches this Contract or any Deficiency is later discovered with respect to such Deliverable.

***2.13 Contract Administration.***

**2.13.1 Independent Contractor.** The status of the Contractor shall be that of an independent contractor. The Contractor, its employees, agents, and any subcontractors performing under this Contract are not employees or agents of the State or any agency, division, or department of the State simply by virtue of work performed pursuant to this Contract. Neither the Contractor nor its employees shall be considered employees of the Agency or the State for federal or state tax purposes simply by virtue of work performed pursuant to this Contract. The Agency will not withhold taxes on behalf of the Contractor (unless required by law).

**2.13.2 Incorporation of Documents.** To the extent this Contract arises out of a Solicitation, the parties acknowledge that the Contract consists of these contract terms and conditions as well as the Solicitation and the Bid Proposal. The Solicitation and the Bid Proposal are incorporated into the Contract by reference. If the Contractor proposed exceptions or modifications to the Sample Contract attached to the Solicitation or to the Solicitation itself, these proposed exceptions or modifications shall not be incorporated into this Contract unless expressly set forth herein. If there is a conflict between the Contract, the Solicitation, and the Bid Proposal, the conflict shall be resolved according to the following priority, ranked in descending order: (1) the Contract; (2) the Solicitation; (3) the Bid Proposal.

**2.13.3 Intent of References to Bid Documents.** To the extent this Contract arises out of a Solicitation, the references to the parties' obligations, which are contained in this Contract, are intended to supplement or clarify the obligations as stated in the Solicitation and the Bid Proposal. The failure of the parties to make reference to the terms of the Solicitation or the Bid Proposal in this Contract shall not be construed as creating a conflict and will not relieve the Contractor of the contractual obligations imposed by the terms of the Solicitation and the Contractor’s Bid Proposal. Terms offered in the Bid Proposal, which exceed the requirements of the Solicitation, shall not be construed as creating an inconsistency or conflict with the Solicitation or the Contract. The contractual obligations of the Agency are expressly stated in this document. The Bid Proposal does not create any express or implied obligations of the Agency.

**2.13.4 Compliance with the Law.** The Contractor, its employees, agents, and subcontractors shall comply at all times with all Applicable Law. All such Applicable Law is incorporated into this Contract as of the effective date of the Applicable Law. The Contractor and Agency expressly reject any proposition that future changes to Applicable Law are inapplicable to this Contract and the Contractor’s provision of Deliverables and/or performance in accordance with this Contract. When providing Deliverables pursuant to this Contract the Contractor, its employees, agents, and subcontractors shall comply with all Applicable Law.

**2.13.4.1** The Contractor, its employees, agents, and subcontractors shall not engage in discriminatory employment practices which are forbidden by Applicable Law. Upon the State’s written request, the Contractor shall submit to the State a copy of its affirmative action plan, containing goals and time specifications, and non-discrimination and accessibility plans and policies regarding services to clients as required under 11 Iowa Admin. Code chapter 121.

**2.13.4.2** In the event the Contractor contracts with third parties for the performance of any of the Contractor obligations under this Contract as set forth in Section 2.13.9, the Contractor shall take such steps as necessary to ensure such third parties are bound by the terms and conditions contained in this Section 2.13.4.

**2.13.4.3** Notwithstanding anything in this Contract to the contrary, the Contractor’s failure to fulfill any requirement set forth in this Section 2.13.4 shall be regarded as a material breach of this Contract and the State may cancel, terminate, or suspend in whole or in part this Contract. The State may further declare the Contractor ineligible for future state contracts in accordance with authorized procedures or the Contractor may be subject to other sanctions as provided by law or rule.

**2.13.4.4** The Contractor, its employees, agents, and subcontractors shall also comply with all Applicable Law regarding business permits and licenses that may be required to carry out the work performed under this Contract.

**2.13.4.5** If all or a portion of the funding used to pay for the Deliverables is being provided through a grant from the Federal Government, the Contractor acknowledges and agrees that pursuant to applicable federal laws, regulations, circulars, and bulletins, the awarding agency of the Federal Government reserves certain rights including, without limitation, a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes, the Deliverables developed under this Contract and the copyright in and to such Deliverables.

**2.13.5 Procurement.** The Contractor shall use procurement procedures that comply with all applicable federal, state, and local laws and regulations.

**2.13.6 Non-Exclusive Rights.** This Contract is not exclusive. The Agency reserves the right to select other contractors to provide Deliverables similar or identical to those described in the Scope of Work during the entire term of this Contract, which includes any extensions or renewals thereof.

**2.13.7 Amendments.** This Contract may only be amended by mutual written consent of the parties, with the exception of (1) the Contract end date, which may be extended under the Agency’s sole discretion, and (2) the Business Associate Agreement, which may be modified or replaced on notice pursuant to Section 1.5, *Business Associate Agreement.* Amendments shall be executed on a form approved by the Agency that expressly states the intent of the parties to amend this Contract. This Contract shall not be amended in any way by use of terms and conditions in an Invoice or other ancillary transactional document. To the extent that language in a transactional document conflicts with the terms of this Contract, the terms of this Contract shall control.

**2.13.8 No Third Party Beneficiaries.** There are no third party beneficiaries to this Contract. This Contract is intended only to benefit the State and the Contractor.

**2.13.9 Use of Third Parties.** The Agency acknowledges that the Contractor may contract with third parties for the performance of any of the Contractor’s obligations under this Contract. The Contractor shall notify the Agency in writing of all subcontracts relating to Deliverables to be provided under this Contract prior to the time the subcontract(s) become effective. The Agency reserves the right to review and approve all subcontracts. The Contractor may enter into these contracts to complete the project provided that the Contractor remains responsible for all Deliverables provided under this Contract. All restrictions, obligations, and responsibilities of the Contractor under this Contract shall also apply to the subcontractors and the Contractor shall include in all of its subcontracts a clause that so states. The Agency shall have the right to request the removal of a subcontractor from the Contract for good cause.

**2.13.10 Choice of Law and Forum.** The laws of the State of Iowa shall govern and determine all matters arising out of or in connection with this Contract without regard to the conflict of law provisions of Iowa law. Any and all litigation commenced in connection with this Contract shall be brought and maintained solely in Polk County District Court for the State of Iowa, Des Moines, Iowa, or in the United States District Court for the Southern District of Iowa, Central Division, Des Moines, Iowa, wherever jurisdiction is appropriate. This provision shall not be construed as waiving any immunity to suit or liability including without limitation sovereign immunity in State or Federal court, which may be available to the Agency or the State of Iowa.

**2.13.11 Assignment and Delegation.** The Contractor may not assign, transfer, or convey in whole or in part this Contract without the prior written consent of the Agency. For the purpose of construing this clause, a transfer of a controlling interest in the Contractor shall be considered an assignment. The Contractor may not delegate any of its obligations or duties under this Contract without the prior written consent of the Agency. The Contractor may not assign, pledge as collateral, grant a security interest in, create a lien against, or otherwise encumber any payments that may or will be made to the Contractor under this Contract.

**2.13.12 Integration.** This Contract represents the entire Contract between the parties. The parties shall not rely on any representation that may have been made which is not included in this Contract.

**2.13.13 No Drafter.** No party to this Contract shall be considered the drafter of this Contract for the purpose of any statute, case law, or rule of construction that would or might cause any provision to be construed against the drafter.

**2.13.14 Headings or Captions.** The paragraph headings or captions used in this Contract are for identification purposes only and do not limit or construe the contents of the paragraphs.

**2.13.15 Not a Joint Venture.** Nothing in this Contract shall be construed as creating or constituting the relationship of a partnership, joint venture, (or other association of any kind or agent and principal relationship) between the parties hereto. No party, unless otherwise specifically provided for herein, has the authority to enter into any contract or create an obligation or liability on behalf of, in the name of, or binding upon another party to this Contract.

**2.13.16 Joint and Several Liability.** If the Contractor is a joint entity, consisting of more than one individual, partnership, corporation, or other business organization, all such entities shall be jointly and severally liable for carrying out the activities and obligations of this Contract, for any default of activities and obligations, and for any fiscal liabilities.

**2.13.17 Supersedes Former Contracts or Agreements.** This Contract supersedes all prior contracts or agreements between the Agency and the Contractor for the Deliverables to be provided in connection with this Contract.

**2.13.18 Waiver.** Except as specifically provided for in a waiver signed by duly authorized representatives of the Agency and the Contractor, failure by either party at any time to require performance by the other party or to claim a breach of any provision of the Contract shall not be construed as affecting any subsequent right to require performance or to claim a breach.

**2.13.19 Notice.** With the exception of the Business Associate Agreement, as set forth in Section 1.5, *Business Associate Agreement*, any notices required by the Contract shall be given in writing by registered or certified mail, return receipt requested, by receipted hand delivery, by Federal Express, courier or other similar and reliable carrier which shall be addressed to each party’s Contract Manager as set forth in the Contract Declarations and Execution Section. From time to time, the parties may change the name and address of a party designated to receive notice. Such change of the designated person shall be in writing to the other party.

Each such notice shall be deemed to have been provided:

* At the time it is actually received in the case of hand delivery;
* Within one (1) day in the case of overnight delivery, courier or services such as Federal Express with guaranteed next-day delivery; or
* Within five (5) days after it is deposited in the U.S. Mail.

**2.13.20 Cumulative Rights.** The various rights, powers, options, elections, and remedies of any party provided in this Contract, shall be construed as cumulative and not one of them is exclusive of the others or exclusive of any rights, remedies or priorities allowed either party by law, and shall in no way affect or impair the right of any party to pursue any other equitable or legal remedy to which any party may be entitled.

**2.13.21 Severability.** If any provision of this Contract is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of this Contract.

**2.13.22 Time is of the Essence.** Time is of the essence with respect to the Contractor’s performance of the terms of this Contract. The Contractor shall ensure that all personnel providing Deliverables to the Agency are responsive to the Agency’s requirements and requests in all respects.

**2.13.23 Authorization.** The Contractor represents and warrants that:

**2.13.23.1** It has the right, power, and authority to enter into and perform its obligations under this Contract.

**2.13.23.2** It has taken all requisite action (corporate, statutory, or otherwise) to approve execution, delivery, and performance of this Contract, and this Contract constitutes a legal, valid, and binding obligation upon itself in accordance with its terms.

**2.13.24 Successors in Interest.** All the terms, provisions, and conditions of the Contract shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns, and legal representatives.

**2.13.25 Records Retention and Access.**

**2.13.25.1 Financial Records.** The Contractor shall maintain accurate, current, and complete records of the financial activity of this Contract which sufficiently and properly document and calculate all charges billed to the Agency during the entire term of this Contract, which includes any extensions or renewals thereof, and for a period of at least seven (7) years following the date of final payment or completion of any required audit (whichever is later). If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the seven (7) year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular seven (7) year period, whichever is later. The Contractor shall permit the Agency, the Auditor of the State of Iowa or any other authorized representative of the State and where federal funds are involved, the Comptroller General of the United States or any other authorized representative of the United States government, to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records, or other records of the Contractor relating to orders, Invoices or payments, or any other Documentation or materials pertaining to this Contract, wherever such records may be located. The Contractor shall not impose a charge for audit or examination of the Contractor’s books and records. Based on the audit findings, the Agency reserves the right to address the Contractor’s board or other managing entity regarding performance and expenditures. When state or federal law or the terms of this Contract require compliance with the OMB Circular, or other similar provision addressing proper use of government funds, the Contractor shall comply with these additional records retention and access requirements:

**2.13.25.1.1** Records of financial activity shall include records that adequately identify the source and application of funds. When the terms of this Contract require matching funds, cash contributions made by the Contractor and third-party in-kind (property or service) contributions, these funds must be verifiable from the Contractor’s records. These records must contain information pertaining to contract amount, obligations, unobligated balances, assets, liabilities, expenditures, income, and third-party reimbursements.

**2.13.25.1.2** The Contractor shall maintain accounting records supported by source documentation that may include but are not limited to cancelled checks, paid bills, payroll, time and attendance records, and contract award documents.

**2.13.25.1.3** The Contractor, in maintaining project expenditure accounts, records and reports, shall make any necessary adjustments to reflect refunds, credits, underpayments or overpayments, as well as any adjustments resulting from administrative or compliance reviews and audits. Such adjustments shall be set forth in the financial reports filed with the Agency.

**2.13.25.1.4** The Contractor shall maintain a sufficient record keeping system to provide the necessary data for the purposes of planning, monitoring, and evaluating its program.

**2.13.25.2** The Contractor shall retain all non-medical and medical client records for a period of seven (7) years from the last date of service for each patient; or in the case of a minor patient or client, for a period consistent with that established by Iowa Code § 614.1(9), whichever is greater.

**2.13.26 Audits.** Local governments and non-profit subrecipient entities that expend $750,000 or more in a year in federal awards (from all sources) shall have a single audit conducted for that year in accordance with the provisions of the OMNI Circular, OMB Uniform Guidance: Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. 200. A copy of the final audit report shall be submitted to the Agency if either the schedule of findings and questioned costs or the summary schedule of prior audit findings includes any audit findings related to federal awards provided by the Agency. If an audit report is not required to be submitted per the criteria above, the subrecipient must provide written notification to the Agency that the audit was conducted in accordance with Government Auditing Standards and that neither the schedule of findings and questioned costs nor the summary schedule of prior audit findings includes any audit findings related to federal awards provided by the Agency. See the OMNI Circular, Section 200.330, Subrecipient and Contractor Determinations for a discussion of subrecipient versus contractor (vendor) relationships. The Contractor shall provide the Agency with a copy of any written audit findings or reports, whether in draft or final form, within two (2) Business Days following receipt by the Contractor. The requirements of this paragraph shall apply to the Contractor as well as any subcontractors. **2.13.27** **Reimbursement of Audit Costs.** If the Auditor of the State of Iowa notifies the Agency of an issue or finding involving the Contractor’s noncompliance with laws, rules, regulations, and/or contractual agreements governing the funds distributed under this Contract, the Contractor shall bear the cost of the Auditor’s review and any subsequent assistance provided by the Auditor to determine compliance. The Contractor shall reimburse the Agency for any costs the Agency pays to the Auditor for such review or audit.

**2.13.28 Staff Qualifications and Background Checks.** The Contractor shall be responsible for assuring that all persons, whether they are employees, agents, subcontractors, or anyone acting for or on behalf of the Contractor, are properly licensed, certified, or accredited as required under applicable state law and the Iowa Administrative Code. The Contractor shall provide standards for service providers who are not otherwise licensed, certified, or accredited under state law or the Iowa Administrative Code.

The Agency reserves the right to conduct and/or request the disclosure of criminal history and other background investigation of the Contractor, its officers, directors, shareholders, and the Contractor’s staff, agents, or subcontractors retained by the Contractor for the performance of Contract services.

**2.13.29 Solicitation.** The Contractor represents and warrants that no person or selling agency has been employed or retained to solicit and secure this Contract upon an agreement or understanding for commission, percentage, brokerage, or contingency excepting bona fide employees or selling agents maintained for the purpose of securing business.

**2.13.30 Obligations Beyond Contract Term.** All obligations of the Agency and the Contractor incurred or existing under this Contract as of the date of expiration or termination will survive the expiration or termination of this Contract. Contract sections that survive include, but are not necessarily limited to, the following: (1) Section 2.4.2, *Erroneous Payments and Credits*; (2) Section 2.5.5, *Limitation of the State’s Payment Obligations*; (3) Section 2.5.6, *Contractor’s Contract Close-Out Duties*; (4) Section 2.7, *Indemnification*, and all subparts thereof; (5) Section 2.9, *Ownership and Security of Agency Information*, and all subparts thereof; (6) Section 2.10, *Intellectual Property*, and all subparts thereof; (7) Section 2.13.10, *Choice of Law and Forum*; (8) Section 2.13.16, *Joint and Several Liability*; (9) Section 2.13.20, *Cumulative Rights*; (10) Section 2.13.24 *Successors In Interest*; (11) Section 2.13.25, *Records Retention and Access*, and all subparts thereof; (12) Section 2.13.26, *Audits*; (13) Section 2.13.27, *Reimbursement of Audit Costs*; (14) Section 2.13.35, *Repayment Obligation*; and (15) Section 2.13.39, *Use of Name or Intellectual Property*.

**2.13.31 Counterparts.** The parties agree that this Contract has been or may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument.

**2.13.32 Delays or Potential Delays of Performance.** Whenever the Contractor encounters any difficulty which is delaying or threatens to delay the timely performance of this Contract, including but not limited to potential labor disputes, the Contractor shall immediately give notice thereof in writing to the Agency with all relevant information with respect thereto. Such notice shall not in any way constitute a basis for an extension of the delivery schedule or be construed as a waiver by the Agency or the State of any rights or remedies to which either is entitled by law or pursuant to provisions of this Contract. Failure to give such notice, however, may be grounds for denial of any request for an extension of the delivery schedule because of such delay. Furthermore, the Contractor will not be excused from failure to perform that is due to a Force Majeure unless and until the Contractor provides notice pursuant to this provision.

**2.13.33 Delays or Impossibility of Performance Based on a Force Majeure.** Neither party shall be in default under the Contract if performance is prevented, delayed, or made impossible to the extent that such prevention, delay, or impossibility is caused by a Force Majeure. If a delay results from a subcontractor’s conduct, negligence or failure to perform, the Contractor shall not be excused from compliance with the terms and obligations of the Contract unless the subcontractor or supplier is prevented from timely performance by a Force Majeure as defined in this Contract.

If a Force Majeure delays or prevents the Contractor’s performance, the Contractor shall immediately use its best efforts to directly provide alternate, and to the extent possible, comparable performance. Comparability of performance and the possibility of comparable performance shall be determined solely by the Agency.

The party seeking to exercise this provision and not perform or delay performance pursuant to a Force Majeure shall immediately notify the other party of the occurrence and reason for the delay. The parties shall make every effort to minimize the time of nonperformance and the scope of work not being performed due to the unforeseen events. Dates by which performance obligations are scheduled to be met will be extended only for a period of time equal to the time lost due to any delay so caused.

**2.13.34 Right to Address the Board of Directors or Other Managing Entity.** The Agency reserves the right to address the Contractor’s board of directors or other managing entity of the Contractor regarding performance, expenditures, and any other issue the Agency deems appropriate.

**2.13.35 Repayment Obligation.** In the event that any State and/or federal funds are deferred and/or disallowed as a result of any audits or expended in violation of the laws applicable to the expenditure of such funds, the Contractor shall be liable to the Agency for the full amount of any claim disallowed and for all related penalties incurred. The requirements of this paragraph shall apply to the Contractor as well as any subcontractors.

**2.13.36 Reporting Requirements.** If this Contract permits other State agencies and political subdivisions to make purchases off of the Contract, the Contractor shall keep a record of the purchases made pursuant to the Contract and shall submit a report to the Agency on a quarterly basis. The report shall identify all of the State agencies and political subdivisions making purchases off of this Contract and the quantities purchased pursuant to the Contract during the reporting period.

**2.13.37 Immunity from Liability.** Every person who is a party to the Contract is hereby notified and agrees that the State, the Agency, and all of their employees, agents, successors, and assigns are immune from liability and suit for or from the Contractor’s and/or subcontractors’ activities involving third parties and arising from the Contract.

**2.13.38 Public Records.** The laws of the State require procurement and contract records to be made public unless otherwise provided by law.

**2.13.39 Use of Name or Intellectual Property.** The Contractor agrees it will not use the Agency and/or State’s name or any of their intellectual property, including but not limited to, any State, state agency, board or commission trademarks or logos in any manner, including commercial advertising or as a business reference, without the expressed prior written consent of the Agency and/or the State.

**2.13.40 Taxes.** The State is exempt from Federal excise taxes, and no payment will be made for any

taxes levied on the Contractor’s employees’ wages. The State is exempt from State and local sales and use taxes on the Deliverables.

**2.13.41 No Minimums Guaranteed.** The Contract does not guarantee any minimum level of purchases or any minimum amount of compensation.

*2.14 Contract Certifications.* The Contractor will fully comply with obligations herein. If any conditions within these certifications change, the Contractor will provide written notice to the Agency within twenty-four (24) hours from the date of discovery.

**2.14.1 Certification of Compliance with Pro-Children Act of 1994.** The Contractor must comply with Public Law 103-227, Part C Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act). This Act requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the Deliverables are funded by federal programs either directly or through State or local governments. Federal programs include grants, cooperative agreements, loans or loan guarantees, and contracts. The law also applies to children’s services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children’s services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities (other than clinics) where Women, Infants, and Children (WIC) coupons are redeemed.

The Contractor further agrees that the above language will be included in any subawards that contain provisions for children’s services and that all subgrantees shall certify compliance accordingly. Failure to comply with the provisions of this law may result in the imposition of a civil monetary penalty of up to $1,000.00 per day.

**2.14.2 Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions**

By signing this Contract, the Contractor is providing the certification set out below:

**2.14.2.1** The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the Agency or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**2.14.2.2** The Contractor shall provide immediate written notice to the Agency if at any time the Contractor learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

**2.14.2.3** The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principle, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. Contact the Agency for assistance in obtaining a copy of those regulations.

**2.14.2.4** The Contractor agrees by signing this Contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Agency or agency with which this transaction originated.

**2.14.2.5** The Contractor further agrees by signing this Contract that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

**2.14.2.6** A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. A participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

**2.14.2.7** Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

**2.14.2.8** Except for transactions authorized under Section 2.14.2.4 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the Agency or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**2.14.2.9** The Contractor certifies, by signing this Contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

Where the Contractor is unable to certify to any of the statements in this certification, such Contractor shall attach an explanation to this Contract.

**2.14.3 Restriction on Lobbying.**

This section is applicable to all federally-funded contracts.

Title 45 of the Code of Federal Regulations, Part 93 sets conditions on the use of Federal funds supporting this Contract. The Contractor shall comply with all requirements of CFR Part 93 which is incorporated herein as if fully set forth. No appropriated funds supporting this Contract may be expended by the Contractor for payment of any person for influencing or attempting to influence an employee of the agency (as defined in 5 U.S.C.552(f)), a member of Congress in connection with the award of this Contract, the making of any federal funding grant award connected to this Contract, the making of any Federal loan connected to this Contract, the entering into any cooperative agreement connected to this Contract, and the extension, continuation, or modification of this Contract.

**2.14.3.1** The Contractor shall file with the Agency a certification form, set forth in Appendix A of 45 CFR Part 93, certifying the Contractor, including any subcontractor(s) at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) have not made, and will not make, any payment prohibited under 45 CFR § 93.100.

**2.14.3.2** The Contractor shall file with the Agency a disclosure form, set forth in Appendix B of 45 CFR Part 93, in the event the Contractor or subcontractor(s) at any tier (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) has made or has agreed to make any payment using non-appropriated funds, including profits from any covered Federal action, which would be prohibited under 45 CFR §93.100 if paid for with appropriated funds. All disclosure forms shall be forwarded from tier to tier until received by the Contractor and shall be treated as a material representation of fact upon which all receiving tiers shall rely.

**2.14.3.3** The Contractor shall file with the Agency subsequent disclosure forms at the end of each calendar quarter in which there occurs any event that requires disclosure or materially affects the accuracy of the information contained in any disclosure form previously filed. Such events include:

**2.14.3.3.1** A cumulative increase of $25,000 or more in the amount paid or expected to be paid to influence a covered Federal action;

**2.14.3.3.2** A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; and

**2.14.3.3.3** A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

**2.14.3.4** The Contractor may be subject to civil penalties if the Contractor fails to comply with the requirements of 45 CFR Part 93. An imposition of a civil penalty does not prevent the Agency from taking appropriate enforcement actions which may include, but not necessarily be limited to, termination of the Contract.

**2.14.4 Certification Regarding Drug Free Workplace**

**2.14.4.1 Requirements for Contractors Who are Not Individuals.**  If the Contractor is not an individual, the Contractor agrees to provide a drug-free workplace by:

**2.14.4.1.1** Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the Contractor’s workplace and specifying the actions that will be taken against employees for violations of such prohibition;

**2.14.4.1.2** Establishing a drug-free awareness program to inform employees about:

* The dangers of drug abuse in the workplace;
* The Contractor’s policy of maintaining a drug- free workplace;
* Any available drug counseling, rehabilitation, and employee assistance programs; and
* The penalties that may be imposed upon employees for drug abuse violations;

**2.14.4.1.3** Making it a requirement that each employee to be engaged in the performance of such contract be given a copy of the statement required by Subsection 2.14.4.1.1;

**2.14.4.1.4** Notifying the employee in the statement required by Subsection2.14.4.1.1that as a condition of employment on such contract, the employee will:

* Abide by the terms of the statement; and
* Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;

**2.14.4.1.5** Notifying the contracting agency within ten (10) days after receiving notice under the second unnumbered bullet of Subsection 2.14.4.1.4 from an employee or otherwise receiving actual notice of such conviction;

**2.14.4.1.6** Imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by 41 U.S.C. § 703; and

**2.14.4.1.7** Making a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

**2.14.4.2 Requirement for Individuals.**  If the Contractor is an individual, by signing the Contract, the Contractor agrees not to engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of the Contract.

**2.14.4.3 Notification Requirement.** TheContractor shall, within thirty (30) days after receiving notice from an employee of a conviction pursuant to 41 U.S.C. § 701(a)(1)(D)(ii) or 41 U.S.C. § 702(a)(1)(D)(ii)**:**

**2.14.4.3.1** Take appropriate personnel action against such employee up to and including termination; or

**2.14.4.3.2** Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

**2.14.5 Conflict of Interest.** The Contractor represents, warrants, and covenants that no relationship exists or will exist during the Contract period between the Contractor and the Agency that is a conflict of interest. No employee, officer, or agent of the Contractor or subcontractor shall participate in the selection or in the award or administration of a subcontract if a conflict of interest, real or apparent, exists. The provisions of Iowa Code chapter 68B shall apply to this Contract. The Contractor shall establish safeguards to prevent employees, consultants, or members of governing bodies from using their positions for purposes that are, or give the appearance of being, motivated by the desire for private gain for themselves or others with whom they have family, business, or other ties.

In the event the Contractor becomes aware of any circumstances that may create a conflict of interest the Contractor shall immediately take such actions to mitigate or eliminate the risk of harm caused by the conflict or appearance of conflict. The Contractor shall promptly, fully disclose and notify the Agency of any circumstances that may arise that may create a conflict of interest or an appearance of conflict of interest. Such notification shall be submitted to the Agency in writing within seven (7) Business Days after the conflict or appearance of conflict is discovered.

In the event the Agency determines that a conflict or appearance of a conflict exists, the Agency may take any action that the Agency determines is necessary to mitigate or eliminate the conflict or appearance of a conflict. Such actions may include, but are not limited to:

**2.14.5.1** Exercising any and all rights and remedies under the Contract, up to and including terminating the Contract with or without cause; or

**2.14.5.2** Directing the Contractor to implement a corrective action plan within a specified time frame to mitigate, remedy and/or eliminate the circumstances which constitute the conflict of interest or appearance of conflict or interest; or

**2.14.5.3** Taking any other action the Agency determines is necessary and appropriate to ensure the integrity of the contractual relationship and the public interest.

The Contractor shall be liable for any excess costs to the Agency as a result of the conflict of interest.

**2.14.6 Certification Regarding Sales and Use Tax.** By executing this Contract, the Contractor certifies it is either (1) registered with the Iowa Department of Revenue, collects, and remits Iowa sales and use taxes as required by Iowa Code chapter 423; or (2) not a “retailer” or a “retailer maintaining a place of business in this state” as those terms are defined in Iowa Code § 423.1(42) and (43). The Contractor also acknowledges that the Agency may declare the Contract void if the above certification is false. The Contractor also understands that fraudulent certification may result in the Agency or its representative filing for damages for breach of contract.

# SECTION 3. SPECIAL CONTRACT ATTACHMENTS

**Attachment 3.1 Pricing Schedule**

**Attachment 3.2 Collocation**

**Attachment 3.3 Sample Report Monitoring Tool**

**Attachment 3.4 Sample Monthly Performance Reporting Tool**

**Attachment 3.5 Vendor Security Questionnaire**

# Attachment 3.1: Pricing Schedule

*(TBD)*

{To be completed when contract is drafted.}

# Attachment 3.2: Collocation

As part of the Contract agreement the Agency will provide the following to Contractor staff housed at the Iowa Medicaid Enterprise (IME) permanent facility:

|  |  |
| --- | --- |
| * Cubicles with shelving/storage/desk lighting/desk tops/chairs \*(see note) | * Printing, envelopes, and postage for correspondence directly related to the Iowa Medicaid Program |
| * Telephones and telephone service | * DHS Standard Forms |
| * Standard DHS Desktop PC or Laptop with docking station | * Access to copiers including copy supplies, network printers, and Fax |
| * Keyboard and mouse | * Access to storage |
| * LAN/Internet Access | * Access to shredding |
| * Software List (see table below) | * Access to IME training equipment |
| * Access to IME laptops for occasional use | * Access to break rooms and conference rooms |

\* Note: Work surfaces throughout the building have been installed at the “standard” height. If a Contractor employee is tall or short the work surface can be adjusted for that employee up or down. If an employee has pain due to equipment they are using, an ergonomic evaluation can be completed at the Contractor’s expense. If special equipment is needed based on the ergonomic evaluation, purchase of equipment is at the Contractor’s expense. If any change is needed due to a medical necessity, a note from the employee’s doctor is required. This includes lights out or on, work surfaces raised for standing purposes (more than an inch or two), etc.

**Software List**

Below is a list of Agency-licensed systems and software available for use on Agency computers.

|  |  |
| --- | --- |
| **Name of System/Software** | **Business Purpose** |
| Adobe Acrobat | Reports |
| CEO (Wells Fargo web application) | Premium Processing |
| DHS Server | HIPP File receipts |
| Google Mail | State email system |
| Health Financial Systems (HFS) | Medicare cost report |
| HIPPPassport | HIPP processing |
| Iowa Medicaid Portal Access (IMPA) | Secure DHS system for document uploads, used for monthly accounts receivable. |
| Microsoft Office 2010 (Access, Excel, PowerPoint, Project, Publisher, SharePoint, Visio, Word) |  |
| Microsoft Windows 7 Enterprise Operating System | Operating system |
| MMIS | Medicaid information system, used for TPL, Provider Offsets, Reports, Eligibility, Claims Review |
| OnBase Client | Workflow and document management system, used for TPL, Subrogation, Checks Processing, Disallowance, Bank Reconciliation, Claims adjustments |
| Passport | MEPD premium processing |
| PPS | IHAWP, Dental Wellness, and ***hawk-i*** premium processing |
| RightFax Utility Software | Fax utility software |
| Roxio CD/DVD Creator Basic |  |
| WinZip | Send/receive compress/ encrypted files |

# Attachment 3.3: Sample Report Monitoring Tool

Note: this sample is for illustrative purposes only.

| **Report** | **Frequency** | **Due Date** | **Copy Provided to** | **Contract Section** |
| --- | --- | --- | --- | --- |
| 1.3.1.1 General Obligations | | | | |
| Initial insurance carrier report | One-time |  |  |  |
| Insurance carrier report | Quarterly and as requested |  |  |  |
| Vendor Security Questionnaire | One-time | TBD |  |  |
| Attestation of passed information security risk assessment.  Attestation of passed network penetration scan  Attestation of passed web application security scan | Annually | TBD and July 1 each year thereafter |  |  |
| Disaster Recovery and Business Continuity Plan | Annually | TBD and July 1 each year thereafter |  |  |
| Quality Assurance and Corrective Actions Report | Quarterly |  |  |  |
| Performance Report | Monthly |  |  |  |
|  |  |  |  |  |
| 1.3.1.2 Transition | | | | |
| Project Work Plans | TBD |  |  |  |
| Operational Readiness Checklist | One-time |  |  |  |
|  |  |  |  |  |
| 1.3.1.3 Third Party Liability | | | | |
| TPL findings report | Quarterly |  |  |  |
| TPL amounts billed and collected, current and year-to-date | Monthly |  |  |  |
| TPL recoveries and unrecoverable amounts by carrier, type of coverage, and reason | Quarterly |  |  |  |
| TPL activity reports | Quarterly |  |  |  |
| Quality assurance report | Monthly |  |  |  |
|  |  |  |  |  |
| 1.3.1.3 Lien Recovery (Pay and Chase) | | | | |
| Listing of potential recovery claims based on user input section parameters (subrogation) | Monthly |  |  |  |
| Lien Recovery amounts billed and collected, current, and year-to-date | Monthly |  |  |  |
| Potential trauma, accident, or medical malpractice claims | Monthly |  |  |  |
| Subrogation activity report | Monthly |  |  |  |
|  |  |  |  |  |
| 1.3.1.3 Yield Management | | | | |
| Yield management collections report | Monthly |  |  |  |
| Yield management annual report | Annually |  |  |  |
|  |  |  |  |  |
| 1.3.1.3 Premium Payment Processing | | | | |
| Premium payment processing report | Ad Hoc |  |  |  |
|  |  |  |  |  |
| 1.3.1.3 Provider Overpayment/Credit Balance | | | | |
| Provider overpayment activity report | Monthly |  |  |  |
|  |  |  |  |  |
| 1.3.1.3 Provider Withhold | | | | |
| Withhold processing report | Monthly |  |  |  |
|  |  |  |  |  |
| 1.3.1.4 Insurance Data Match for the ***hawk-i*** Program | | | | |
| Insurance Data Match report | Monthly |  |  |  |
|  |  |  |  |  |
| 1.3.1.5 Estate Recovery | | | | |
| Estate Recovery summary report | Monthly |  |  |  |
| Estate Recovery annual report | Annually |  |  |  |
|  |  |  |  |  |
| 1.3.1.5 Trust Monitoring | | | | |
| Trust Monitoring annual report | Annually |  |  |  |
| Outreach activities summary report | Quarterly |  |  |  |
|  |  |  |  |  |
| 1.3.1.5 Trust Recovery | | | | |
| Trust Recovery ongoing cases and collections report | Monthly |  |  |  |
| Trust Recovery annual report | Annually |  |  |  |
|  |  |  |  |  |

# Attachment 3.4: Sample Monthly Performance Reporting Tool

Note: this sample is for illustrative purposes only.

| **Business Area** | **Contract Section** | **Performance Standard** | **Total Completed within timeframes** | **Standard Met (Y/N)** |
| --- | --- | --- | --- | --- |
| General Requirements |  | Respond to email or telephone inquiries from Members, authorized representatives, or providers within two business days of receipt. |  |  |
| General Requirements |  | Deposit checks or money orders received at the Iowa Medicaid Enterprise (IME) facility within one (1) business day of their preparation for deposit. |  |  |
| General Requirements |  | Deliver the initial insurance carrier report to the Agency within thirty (30) days of the start of the Contract. |  |  |
| Transition |  | Submit transition, system implementation, and operations plans to the Agency for approval within 15 business days after Contract execution. |  |  |
| Transition |  | Submit SOPs to the Agency within 25 business days after Contract execution. |  |  |
| Third Party Liability |  | Deposit all TPL recovery amounts within two (2) business days and post/apply all denial information within sixty (60) business days of receipt. |  |  |
| Lien Recovery |  | Prepare and process credits or adjustments against recoveries received within 20 business days. |  |  |
| Premium Processing |  | For contribution/premium payment checks that are received manually, post the checks to the system designed to record premium information within one (1) business day of receipt from the bank. |  |  |
| Provider Overpayments – Credit Balances |  | Prepare and process credits or adjustments against recoveries received within thirty (30) calendar days of receipt of the recoveries. |  |  |
| Provider Withholds |  | Process all requests for withhold within one (1) business day of receipt of request. |  |  |
| Insurance Data Match for the ***hawk-i*** Program |  | The Contractor shall conduct a data match on daily files within one (1) business day of receipt of file. |  |  |
| Estate Recovery |  | The Contractor shall notify the authorized representative of the deceased Member within ten (10) business days when an estate subject to recovery is opened in probate, and a Notice of Probate has been received. |  |  |
| Trust Monitoring |  | The Contractor shall log all Trusts referred by Medicaid eligibility staff into the case tracking system within one (1) business day of receipt. |  |  |
| Trust Recovery |  | The Contractor shall notify the representative/attorney of the deceased of the obligation of the trust to relinquish funds in repayment of medical assistance payments within 10 business days of identification of the existence of a medical assistance income trust or a special needs trust. |  |  |

**REPORTING**

|  |  |  |  |
| --- | --- | --- | --- |
| **Report due during the month** | **Due Date/Time** | **Accepted by the Agency (Y/N)** | **Standard Met (Y/N)** |
|  |  |  |  |
|  |  |  |  |

# Attachment 3.5: Vendor Security Questionnaire

|  |  |  |  |
| --- | --- | --- | --- |
| **Question** | | | (Enter Name and Date) |
| **Response** |
| **Data Ownership and Protection** | | | |
| 1 | **In what geographic location(s) is DHS data stored, and how rapidly will DHS be notified if this changes?** | |  |
| 2 | **How does DHS get its data if the Vendor goes out of business or DHS terminates the contract?** | |  |
| 3 | **How does the Vendor detect changes to the integrity of DHS data and what measures are in place to ensure DHS data is not lost or destroyed?** | |  |
| 4 | **What happens to DHS data if the Vendor is purchased by another company?** | |  |
| 5 | **How is DHS data protected while it is stored? Is it encrypted? Does DHS control the encryption key?** | |  |
| 6 | **How does the Vendor detect and report a compromise to DHS data or services?** | |  |
| 7 | **What protections does the Vendor provide for protected health information (“PHI”) (as the term is defined in the Health Insurance Portability and Accountability Act of 1996, (“HIPAA”) regulations, and personally identifiable information (“PII”) (which more generally encompasses any individually identifiable information, regardless of whether it relates to health care)?** | |  |
| 8 | **How does the Vendor ensure deleted data cannot be recreated?** | |  |
| 9 | **Will DHS data be provided to cloud service providers you utilize? How can DHS be assured cloud service providers meet the same standards for security?** | |  |
| 10 | **What means are provided for DHS to audit the Vendor’s access to DHS data and services and the Vendor’s service provider access to DHS data and services, if applicable?** | |  |
| 11 | **If the Vendor is currently not using a cloud environment but plans to implement in the future, will DHS be notified of the cloud environment and be provided the opportunity to review the services? If not, so state.** | |  |
| **User Identity Management and Federation** | | | |
| 12 | **How does the Vendor identify users?** |  | |
| 13 | **What credentials are required to access DHS data and applications (e.g. username and password)?** |  | |
| 14 | **What two-factor authentication mechanisms do you support?** |  | |
| **Regulatory Compliance** | | | |
| 15 | **Is the Vendor a HIPAA covered entity?** |  | |
| 16 | **Does any of the Vendor staff receive HIPAA training? Please explain.** |  | |
| 17 | **Would the Vendor be considered a business associate under HIPAA? In any circumstance, or specifically in relation to this exchange?** |  | |
| 18 | **Does Vendor staff receive HIPAA training? Please explain.** |  | |
| 19 | **Is Vendor FedRAMP Compliance Certified?** |  | |
| 20 | **How does the Vendor demonstrate regulatory compliance with regards to data security and privacy?** |  | |
| 21 | **Is the Vendor audited by third parties? What audit or security framework is used?** |  | |
| 22 | **What is the Vendor’s information security risk assessment and management process?** |  | |
| **Business Continuity and Resiliency** | | | |
| 23 | **How does the Vendor ensure DHS can continue doing business at all times, even if there is a permanent catastrophic failure or natural or man-made disaster where DHS data or services are located?** |  | |
| 24 | **What standards does the Vendor follow for business continuity (e.g. ASIS/BSI BCM.01:2010)? Is the Vendor certified?** |  | |
| 25 | **Does the Vendor have a business continuity plan?** |  | |
| 26 | **How often is the business continuity plan tested?** |  | |
| 27 | **How are backups of DHS data protected and are off-site backups utilized? What facilities store off-site backups?** |  | |
| 28 | **What guarantees are provided for recovery time objectives (RTO) and recovery point objectives (RPO)?** |  | |
| **User Privacy and Secondary Uses of Data** | | | |
| 29 | **What is the Vendor’s privacy policy covering information other than PHI and PII?** |  | |
| 30 | **Do you collect data about DHS activity and DHS employee activity in your system and use that data for purposes outside the scope of your contracted services with DHS??** |  | |
| **Service and Data Integration** | | | |
| 31 | **How does DHS access DHS data and services from the DHS office?** |  | |
| 32 | **How is DHS data encrypted as it flows across the network between the DHS location and the Vendor’s?** |  | |
| 33 | **What is the Vendor’s FIPS 140-2 compliancy status?** |  | |
| 34 | **Is data at rest on the Vendor’s servers encrypted in a manner consistent with** [***HHS Guidance to Render Unsecured PHI Unusable, Unreadable, or Indecipherable to Unauthorized Individuals?***](http://www.hhs.gov/hipaa/for-professionals/breach-notification/guidance/index.html) |  | |
| 35 | **Is data transmitted to DHS encrypted in a manner consistent with** [***HHS Guidance to Render Unsecured PHI Unusable, Unreadable, or Indecipherable to Unauthorized Individuals?***](http://www.hhs.gov/hipaa/for-professionals/breach-notification/guidance/index.html) |  | |
| 36 | **How does the Vendor monitor data flowing into the Vendor’s network for malware and other attacks?** |  | |
| 37 | **What tools and procedures does the Vendor utilize for intrusion detection and how is this capability tested for functionality at the hardware, network, and database levels.** |  | |
| **Multi-Tenancy** | | | |
| 37 | **How does the Vendor separate DHS data and services from those of other clients?** |  | |
| 38 | **In what ways could the Vendor’s other client’s affect the quality of the service or service levels provided to DHS?** |  | |
| 39 | **What resources will DHS be sharing with other clients?** |  | |
| 40 | **How does the Vendor manage the software upgrade process? What are DHS responsibilities?** |  | |
| **Infrastructure and Application Security** | | | |
| 41 | **Who owns and operates the Vendor’s data centers and what physical and environment security measures are in place?** |  | |
| 42 | **What parts of the Vendor’s infrastructure are owned and operated by the Vendor and what parts are obtained from a service provider?** |  | |
| 43 | **What standards are followed for hardening network equipment, operating systems, and applications?** |  | |
| 44 | **Who has access to the systems providing DHS data and services? How is this access controlled?** |  | |
| 45 | **How does the Vendor perform vulnerability and risk assessments?** |  | |
| 46 | **How does the Vendor use third-party penetration testing for assessing infrastructure and application security?** |  | |
| 47 | **When equipment is retired or replaced for repair, how does the vendor purge any resident DHS data prior to disposal.** |  | |
| 48 | **Explain how the vendor has implemented secure application development techniques in order to ensure security is established at the beginning of development in order to minimize known vulnerability types and eliminate website vulnerabilities identified in the latest published OWASP Top 10 list?** |  | |
| **Non-production Environment Exposure** | | | |
| 49 | **How many copies are made of DHS data and where are these copies located?** |  | |
| 50 | **Who has access to copies of DHS data?** |  | |
| 51 | **Which copies are de-identified and which are not?** |  | |
| 52 | **How are copies of DHS data protected?** |  | |
| 53 | **What capabilities are provided to DHS to audit the Vendor’s access to copies of DHS data?** |  | |